

Primary Source

# Constitution of the Cherokee Nation

*In 1827 the Cherokee Nation wrote a constitution outlining the manner in which it would govern itself. Drawn up by a convention led by Chief John Ross, the constitution represented a brazen assertion of Cherokee sovereignty—though, ironically, it drew heavily from the Constitution of the United States for inspiration. This, and the fact that it was published in both English and the Cherokee language in a Cherokee newspaper, demonstrated the willingness and capacity of Cherokees to adopt aspects of white civilization. Tragically, however, the Cherokee constitution had the effect of ratcheting up calls by whites for Indian removal. The following excerpts from the Cherokee constitution illustrate some of its similarities with the U. S. Constitution.*

CONSTITUTION OF THE CHEROKEE NATION, *Formed by a Convention of Delegates from the several Districts, at New Echota, July 1827.*

WE, THE REPRESENTATIVES of the people of the CHEROKEE NATION, in Convention assembled, in order to establish justice, ensure tranquility, promote our common welfare, and secure to ourselves and our posterity the blessings of liberty; acknowledging with humility and gratitude the goodness of the sovereign Ruler of the Universe, in offering us an opportunity so favorable to the design, and imploring his aid and direction in its accomplishment, do ordain and establish this Constitution for the Government of the Cherokee Nation.

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## ARTICLE II.

Sec. 1. THE POWER of this Government shall be divided into three distinct departments;—the Legislative, the Executive, and the Judicial.

Sec. 2. No person or persons, belonging to one of these Departments, shall exercise any of the powers properly belonging to either of the others, except in the cases hereinafter expressly directed or permitted.

#### ARTICLE III.

Sec. 4. No person shall be eligible to a seat in the General Council, but a free Cherokee Male citizen, who shall have attained to the age of twenty-five years. The descendants of Cherokee men by all free women, except the African race, whose parents may be or have been living together as man and wife, according to the customs and laws of this Nation, shall be entitled to all the rights and privileges of this Nation, as well as the posterity of Cherokee women by all free men. No person who is of negro or mulatto parentage, either by the father or mother side, shall be eligible to hold any office of profit, honor or trust, under this Government.

#### ARTICLE V.

Sec. 14. In all criminal prosecutions, the accused shall have the right of being heard, of demanding the nature and cause of the accusation against him, of meeting the witnesses face to face, of having compulsory process for obtaining witness in his favour: and in prosecutions by indictment or information, a speedy public trial by an impartial jury of the vicinage; nor shall he be compelled to give evidence against himself.

Sec. 15. The people shall be secure in their persons, houses, papers and possessions, from unreasonable seizures and searches, and no warrant to search any place or to seize any person or things, shall issue without describing them as nearly as may be, nor without good cause, supported by oath, or affirmation.

#### ARTICLE VI.

Sec. 2. No person who denies the being of a God, or a future state of rewards & punishments, shall hold any office in the civil department of this Nation.

Sec. 3. The free exercise of religious worship, and serving God without distinction, shall forever be allowed within this Nation: *Provided*, That this liberty of conscience shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of this Nation.

. . . .

Sec. 9. The right of trial by jury shall remain inviolate.

**Source:** *Cherokee Phoenix*, February 21 and 28, March 6, 1828.