Bill No. 49.

An Act to organize and establish the Circuit Courts of the Choctaw Nation and to define their power and jurisdiction in law, and to fix the salaries of the Judges thereof

Sec 1. Be it enacted by the General Council of the Choctaw Nation assembled that this Nation shall be divided into three judicial districts, viz: Moshulatubbee District shall be called the First Judicial District. ~~Apuckshunubbee~~ District shall be called the Second Judicial District, and Pushmataha District shall be called the Third Judicial District; and a Circuit Court shall be held in each, twice in each year, to commence and continue, viz: in the first judicial district on the first Mondays of November of May at the place prescribed by Law in the second judicial district on the first Mondays of December and June at the place prescribed by Law in the third judicial district on the first Mondays of February and August at the place prescribed by Law and each may continue in session thirty judicial days if business requires it but no longer.

Sec 2 The Judges of the Circuit Courts shall be elected by the qualified voters of their districts in the same manner as provided for electing district and county officers, and the person having the highest number of legal votes shall be declared duly elected, and shall be promptly commissioned by the Principal Chief, and shall continue in office for the term prescribed by the Constitution unless sooner removed, and shall take the oath of office prescribed in the Constitution, before the Principal Chief or any Judge of a Court of record; a certificate of which shall be filed in the Clerk's office of the district where they shall first sit; without which oath and certificate if they shall officiate as such they shall be deemed guilty of a high misdemeanor, and may be removed from office therefor.

Sec 3 The Circuit Courts in the several districts of this Nation shall have power to hear and determine all prosecutions of criminal cases by information or by indictment in the name of the Choctaw Nation for treason, murder and all other felonies crimes and misdemeanors committed in their respective jurisdictions, except such as properly belong to the United States Courts and shall exercise all the powers incident to or belonging to a Court of Oyer and Ter-

miner, and general jail delivery, and to do and perform all other acts properly pertaining to Circuit Courts of law; and the Judges of said Courts shall each have power either in vacation or term time to grant writs of habeas corpus, ne exeat injunction, to stay waste, to enjoin execution of a judgment or to stay proceedings at law, and all other remedial writs returnable to a Court of law. Said Courts shall have power to fine and imprison any person who may be guilty of contempt of Court, while sitting, either in the presence or hearing of the Court: provided such fine shall not exceed One Hundred Dollars, and imprisonment shall not be for a longer time than the term of the Court at which the contempt was committed.

See 4 The Circuit Courts shall have original jurisdiction of all suits and actions for the recovery of money founded on any bonds or contracts when the principle of the sum in controversy exceeds fifty dollars, and all causes, matters and things arising under the Constitution and laws of this Nation which are not expressly cognizable in some other Court; as well as all cases of divorce, alimony, and fore-

closure of mortgages: and shall also have power to hear and determine all motions on reasonable notice to the adverse party against Sheriffs or other officers for money received under execution or other process or order of the Court, which shall not be paid to the party entitled to the same, his agent or attorney, on demand; and all motions against attorneys and Counsellors at law for failing or refusing to pay money received for their clients; and to give judgment according to the statutes in such cases made and provided and award execution therefor.

Sec 5 The Judges of the Circuit Courts may alternate

Senate Amendment.

Strike out in sec. 5 the words five and insert in lieu thereof the word two.

... same the adjournment shall to the next succeeding term.

Sec 6 If from any cause a Circuit Court shall not be held at any term thereof, or shall not continue to sit the whole term, or before the end of the term shall not have heard and determined all matters ready for its dis-

position, then all processes, pleadings and proceedings of whatsoever nature remaining in said Court pending and undecided, shall stand continued of course until the next succeeding term; and if from any cause a Court shall not sit on any day in a term after it shall have commenced there shall be no discontinuance; but the Court may proceed to business on any subsequent day until the end of the term if business, before said Court, shall not be sooner disposed of.

Sec 7 Clerks of Circuit Courts in making out their issue dockets for each term shall set as many suits for each day, beginning on the first day, and proceeding as far in the term as the number of suits may make it necessary, or the Judges may direct or in their opinion may best suit the business of the Courts, and no cause shall be taken up for trial or hearing on a day previous to that for which it may have been set; and the clerks shall issue subpoenas for witnesses to attend on the days on which their respective cases have been set. Clerks shall draw up the minutes of each day previous to the next days sitting of the Courts when the same shall be read in open Court

and after such corrections as are necessary being made if any. therein the same shall be signed by their respective presiding Judges and carefully preserved by the Clerks in well bound books kept for the purpose: and on the last day of each term the clerks shall draw up the minutes of that day, in the same way as before, which shall be read and corrected and signed by the Judges on that day -

Sec 8 Clerks of Circuits Courts are authorized to procure seals for the use of their Courts at the expense of the Nation with the styles of their respective Courts around the margins, and an eagle in the center of each -

Sec 9. Until provision is made by the County Courts of the different counties in the Nation for the erection of jails within their limits, the jail, situated within each judicial district, shall in all cases be used as the jail of the Circuit Court for that district: and the Sheriffs of the Counties wherein such jails are situated shall be the jailors for the Circuit Courts of their respective districts and shall take into custody all persons committed by process from said Courts: and

all persons committed by whatever lawful authority for trial in such courts the Sheriffs of the counties in which any Circuit Court shall sit shall execute all judgments and sentences rendered by such courts in any criminal case: provided such judgments are by law to be executed in the said Counties in which the Circuit Courts shall be holden, and shall in all respects act as Sheriffs of said Courts and it shall be the duty of the Sheriffs of the counties in which the Circuit Courts are located to deputise three suitable persons citizens of said counties to act as deputies during the terms of said Courts, in addition to the number now allowed to sheriffs under the law. Said deputies shall be sworn and qualified as other deputies are qualified and shall receive like fees as other deputies and the execution of any judgment rendered in the Circuit Courts to be made in any manner in any County of the judicial district other than the county in which the Circuit Courts shall be holden, shall be by the Clerks issued and directed to the Sheriff of the County in which the cause of action shall accrue to be by said Sheriff executed and returned to said Clerks in like manner as executed by the Sheriffs

of the counties in which the Circuit Courts are held.

Sec 10. Clerks of Circuit Courts shall make out for each term of their respective courts separate dockets, in one of which shall be placed all civil causes and in the other all criminal cases, and it is hereby expressly declared to be the duty of the Judges of the courts aforesaid to give preference to and take up said criminal docket for trial on motion of the District Attorney unless good cause is shown to the contrary

Sec 11. Whenever the regular term of any Circuit Court shall have failed, and in the opinion of the Judge presiding therein the business of the Court requires it; the said Judge is hereby authorized and directed to order a special term of said Circuit Court to be holden; which order shall be entered upon the minutes of the special term; and on receiving notice of said order the Clerk and Sheriff of the County in which said Court may be located to make out and draw a panel for said special term, upon which panel so drawn a venire facias shall issue; all to be summoned accordingly; and at any such

special term the said Court shall have power to hear and determine all business remaining in the said Court unfinished and not specially continued at the preceding regular terms: and shall also have and exercise full jurisdiction of all jail delivery in all cases which have not been so continued; which said special terms whenever so ordered, shall continue until all the business therein pending shall be finished; provided that no special term shall be ordered to be holden on shorter notice than thirty days from the date of the order written notices of which shall be put up by the said Clerk in at least five public places in the District giving twenty days' notice of the time and place of holding the same

Dec 12 Whenever any Judge of any Circuit Court shall be disqualified from any cause whatsoever, for sitting on any case in his Court, he is hereby authorized to appoint any legal voter present who may be qualified: to try such case and no other; and if any Judge shall try any case in which he may be interested or otherwise disqualified without the consent of the parties to the case, he shall

be deemed guilty of a high misdemeanor in office, and shall be liable to impeachment therefor -

Sec 13 If at any time when a special term of any Circuit Court ought to be holden it should happen that the presiding Judge of that district should be sick, absent, or prevented by any other cause besides being interested, from holding said special term: then it shall be the duty of the presiding Judge of the adjoining or other district: on being notified of such incapability or inability by the Judge of the district in which such special term ought to be holden, to make the order for holding such special term to the Clerk of the proper district; when he, the said Clerk, and the Sheriff shall proceed as in Section eleven of this act, and said Judge so ordering said special term shall attend and hold it -

Sec 14 The Judges of the Circuit Courts shall each be entitled to receive Five Hundred Dollars per annum, to be paid quarterly out of the National treasury upon presentation of their accounts therefor to the Auditor

Sec 15 All suits of every kind now pending

in the Circuit Courts of the different counties in this Nation entried, are hereby transferred and removed to their respective Circuits Courts as organized under this ack: and the several Circuit Judges are charged with the proper enforcement of this section.

Sec 16 All acts or parts of acts coming in any manner in confflict with the provisions of this ack are hereby repealed and this ack shall take effect and be in force from and after its passage.

Proposed by

~~C. S. Vinson~~

C. S. Vinson

Passed the senate
with amendment,
Nov. 3rd 1883 –
Thos Winston
Pres. Sen.
Jno R James
Rec. Sec.

passed House with
ammendment
Nov 3rd 1883
J. W. Everidge
Speaker

approved
Nov 3rd 1883
J. F. McCurtain
P. C. C. N

circuit No. 49
courts.

laid over for further
Consideration in the
house ~~oct~~ Nov 1st
A D 1883
J. W. Everidge
Speaker

Passed the house
~~oct~~ Nov 2nd
1883
J. W. Everidge
Speaker

Refered to the senate
Nov 2nd 1883

Laid over for
further Consideration
~~oct~~ Nov. 2nd. 1883 –