

CHEROKEE CONSTITUTION.

We stated in one of our last numbers, that the Principal Chiefs of this Nation were to meet the United State's Agent, at his residence, for the purpose of hearing a communication from the President in relation to the newly formed Cherokee Constitution. As many influential men of the adjoining States and *elsewhere*, particularly members of Congress, either from misapprehension, or settled determination to oppose every Indian Improvement, have raised the cry, that an "Indian tribe in the heart of the Union has assumed an attitude of independence, by forming a constitution and ought to be opposed," we were fearful that the Executive would make serious exceptions to some of the principles of our infant government. We are, however, happily disappointed. The words of the President contain no intimation that the Cherokees ought to be prohibited from forming a Constitution, but on the contrary, that this Constitution can be recognized by the General Government, if its provisions do not interfere with the relation existing between the United States and the Cherokees. It was never the intention of the framers of this Constitution, or their Constituents, to alter that connection. We believe the Cherokees are aware of the importance, particularly at this interesting crisis, when enemies abound, of holding the President's hand, or in other words the General Government, and paying a suitable regard to the existing treaties. But without multiplying our own remarks, we present to our readers the letter of the United State's Agent on this subject, and the reply of the two Principal Chiefs. We publish them *verbatim, ad litteram*.

COMMUNICATION TO THE CHIEFS OF THE CHEROKEE NATION 16 APRIL, 1828.

Friends & Brothers

It was in obedience to Instructions from your Great Father, the President of the United States, That I sent for you—you have done well that you have come;—I thank you for it—

I have but little to Say to you, and what I have to say are his words—not mine

The subject of your having formed a Constitution, and Constitutional Government, has Raised a Considerable Clamour particularly in the adjoining States—

It has been brought before the Congress of the United States—and the President has been Officially notified of it—And has directed me to convene the Chiefs, and inform them, that he wishes them, distinctly to understand that this act of theirs, cannot be considered in any other light, than as Regulations of purely municipal Character—And which he wishes them, distinctly to understand, will not be Recognized, as Changing any one of the Relations under which they stood to the General Government, prior to the adoption of said Constitution.”

These are all the words which he has directed me, to say to you—They contain but two sentences,—both of which are delivered with Considerable emphasis,—and both of which I wish you to understand, Take them and ponder them over, and over again—They are the words of your Father & friend;—

To some of you it may be necessary, to explain what I understand by municipal Regulations,—I understand them to be such Ordinances, Rules, or By laws, as the Inhabitants of any City, Town, or other Body Corporate, are authorized by their several Acts of Incorporation, to pass for their own internal Regulation & Government;

To make this more plain, I will give you an example—the people living in a Town, apply to the legislature of their State to be incorporated, and it is granted, A Law passes defining their Corporate boundaries, and authorizing them to Elect concillars, to make such ordinances, or By Laws, as they deem necessary for the Government, and well being of the people Residing within Their Corporate limits (provided those By Laws shall not be Contrary to the Laws of the State) and to Elect Officers to Execute those By Laws,—which when so made, have all the force of the state Laws over those people; But cannot prevent, and must not militate against, or impede, the Regular administration of the Laws of the State,—over that same Territory and people.

A word or two now as to the Relations, under which you stood to the General Government, prior to the adoption of said Constitution,—when the United States took the Cherokees by the hand, and adopted them as children into the great American Family, certain stipulations were entered into; called a Treaty; By which both parties were bound; and neither can annul, without the Consent of the other.—In which the Cherokees gave up to the General Government Certain Rights & privelleges, which they previously & while in a savage state enjoyed.—and Received in Lieu thereof, what was believed by your Fathers, to be an Equivellent,

You gave up to them, your Sovereign, Independence;—and the Right to Regulate all your Intercourse;—with Foreign nations, or Individual Foreigners, and with their Citizens.—And in Lieu thereof, Received their protection;—In life, liberty and property;—But in none of your Treatys with them, do I find that you gave to them,—the Right to Regulate your own Intercourse with each other,—or to punish your own people for any violation of your own Regulation;—Unless it is found in that Broad expression; in the latter part of the 9th Article of the Treaty at Hopewell; (viz) “and to manage all their affairs in such manner as they think proper”—neither do I find in any of the Intercourse Laws passed by Congress the Right assumed to enforce a compliance with contracts made between two Indians,—nor to punish one Indian, for an Offence Committed against another;—within the Indian Territory.—on the Contrary, I find in the 2nd section of an act passed the 3rd march 1817, Entitled an act, to provide for the punishment of crimes committed within the Indian Boundary; the following proviso, (viz), Provided that “nothing in this act, shall be so construed, as to effect any Treaty now in force, between the United states & any Indian nation;—or to extend to any offence committed by one Indian against another, within any Indian boundary.

This Explains to my mind satisfactorily, what the President means in Reference to you; by “Regulations of a purely municipale Character.—(viz) to enforce the payment of debts owing by one Indian, to another, to prevent (or Remedy) wrongs done, by one Indian, to another, or punish one Indian for crimes or offences committed against another.—and to make

such other Regulations as in your
Judgement will promote good order in
society; with a view to the Happiness
& prosperity of your people—

But these Regulations, as in the
example given, must not Contradict
prevent, militate against, or impede,
any the Regular administration of the
Laws made by the higher Powers or
the Existing Treaties. This in my
opinion is, the Relation in which you
stand to the General Government—

In conclusion give me leave to add
a few words of my own; They are al
so the words of a friend;

—This is an eventful period in your
existence, as a people; every step
you take is fraught with events.—

It is my advice, to you, To view
well the Path you mean to tread; Pur
sue it Carefully, and tread it cau
tiously.—

Hold your Great Father the Presi
dent fast by the hand dont move a sin
gle step in any new path, with out his
Council, and advice.—a proper course
taken at this time and pursued stadi
ly; may (with Heavens Blessing) lead
you to Greatness and Renown;—But
one wrong step may be fatal and Re
medeless.—

Let your path be such as to secure
the friendship and protection of the
United States; & cultivate the friend
ship of the surrounding states; Live
in peace and friendship amongst your
selves;—and may the Great Spirit,
direct your feet in the Right path, and
throw his light around it.—I again
thank you for your attendence.

H. MONTGOMERY.

*Agency Cherokee Nation,
April 16, 1828.*

To COL. H. MONTGOMERY, UNIT
ED STATES AGENT,

BROTHER.—Your communication
in obedience to instructions from the
President of the United States is this
day received.—We regret to learn
that the circumstance of our having
established a Constitutional Govern
ment, has produced a clamour in the
adjoining states, especially when there
was no just cause for it, as is evidenc
ed from the manner in which Congress
disposed of the subject, when it was
introduced before that Honorable bo
dy.

The President has thought proper
to direct you to convene us on this oc
casion, for the purpose of informing us,
that he wishes us distinctly to un
derstand that this act of the Nation,
cannot be viewed in any other light
than as regulations purely of a muni
cipal character, and which he wishes
us distinctly to understand will not be
recognized as changing any one of the
relations under which the Nation stood
to the General Government, prior to
the adoption of our constitution.—
These remarks you state contain all
the words which you are directed to
say to us.—We freely & with pleasure
coincide, with the Executive in the o
pinion, that our relation and connec
tion with the General Government, is
not changed, but remains the same as
it was before the Cherokee Constitu
tion was adopted. That instrument
contains a special article, which
states, that all lawful treaties be
tween the United States and this Che
rokee Nation shall be the supreme
law of the land. This proves, the
view of this Nation as to its connec
tion with the General Government
without any shadow of doubtful con
struction. Your explanation of "Mu
nicipal Regulations," however cor
rect in regard, to the police or by
laws of incorporated Towns and Ci
ties is inapplicable to the true situa
tion of this Nation, that claims for it
self and always maintained sovereign
jurisdiction over its territorial limits—
you say, that to make it more plain
I will give you an example; The
people living in a town, apply to the
Legislature of their state to be incor
porated and it is granted and a law
passes defining &c." This Nation
by its own Legislature authorized and
recommended the adoption of a Repu
blican Constitution, which has been
done. It had no relation or connec
tion to a State to ask of it, its consent,
being connected and related to the
United States alone, by treaty. And as
this Nation never surrendered her right
to self Government or the exercise of
its internal and domestic regulation, it
was needless to ask for it from the
General Government, to whom, as a
generous nation, our improved Legis
lation for ourselves could not possibly
afford any misapprehension, or a sub
ject of disapprobation —As to your
views of certain passages of our trea
ties with the United States, we do
not deem it necessary at this time, to

reply to them; and as the President of the United States respects all existing treaties with this Nation, we heartily join with him, heart and hand, in the opinion, that their stipulations are fixed and not to be changed, without the consent of both parties. It affords us pleasure, to have listened to your advice, for which you will accept of our sincere thanks, and please to accept the assurances of respect and esteem from your friends and Brothers

(Signed)

WILLIAM HICKS.
JOHN ROSS.
