

CHEROKEE CONSTITUTION.

We state 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 literatim*.

Communication to the Chiefs of the Cherokee Nation 16th April, 1828.

Friends and Brethrens

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 clamor 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 Resolutions 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 you. They contain but two sentences; both of which are delivered with considerable emphases; and both of which I wish you to understand, take and ponder them over, and over again. They are the words of your father and 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 regulations and 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 authorising them to elect councillors, 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 these 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 and privileges, which they previously and while in a savage state enjoyed. And received in lieu thereof, what was believed by your fathers, to be an equivalent.

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

lien thereof, Received their protection; In liberty and property, But in none of your Treaties with them, do I find that you gave them, the right to regulate your own Intercourse with each other, or to punish your people for any violation of your own regulations. Unless it is found in that Broad expression; the latter part of the 9th Article of the Treaty at Hopewell; (viz) "and to manage all the 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 3d March 1827, Entitled an act, to provide the punishment of crimes committed within the Indian Boundary; the following proviso, (viz) Provided that nothing in this act, shall be construed, as to effect any Treaty now in force between the United States and 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 municipal Character--(viz) to enforce the payment of debts owing one Indian to another, to prevent (Remedy) wrongs done by one Indian, to another or punish one Indian, for crimes of another, and to make such other regulations as in your Judgement will promote good order in society with a view to the Happiness and prosperity of your people.

But these regulations, as in the example given, must not contradict, prevent, militate against, or impede, 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 Great Government.

In conclusion give me leave to add a few words of my own; They are also 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, Pursue it Gracefully and tread it cautiously.

Hold your Great Father the President by the hand and dont move a single step in a new path, without his Council, and advice. The proper course taken at this time and pursued steadily; may (with Heavens blessing) lead you to Greatness and renown; but one wrong step may be fatal and irremediable.

Let your path be such as to secure the friendship and protection of the United States; calculate the friendship of the surrounding states; Live in peace and friendship among yourselves; and may the Great Spirit direct your feet in the right path, and throw his light around it.—I again thank you for your attendance.

H. MONTGOMERY

AGENCY CHEROKEE NATION, April 17, 1831
To Col. H. Montgomery, United 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 Government, has produced clamour in the adjoining States, especially where there was no just cause for it, as is evident from the manner in which Congress disposed of the subject, when it was introduced before the Honorable body.

The President has thought proper to direct you to convene us on this occasion, for the purpose of informing us, that he wishes us distinctly to understand that this act of the Nation, cannot be viewed in any other light than regulations purely of a municipal character, which he wishes us distinctly to understand will not be recognized as changing any one of the regulations under which the Nation stood to the General Government, prior to the adoption of our constitution." These remarks state contain all the words which you are directed to say to us --We freely and with pleasure coincide with the Executive in the opinion of our relation and connection with the General Government, is not changed, but remains the same as it was before the Cherokee Constitution was adopted. That instrument contains a special article, which states, that all laws, treaties between the United States and this Cherokee Nation shall be the supreme law of the land. This proves the views of this Nation to its connection with the General Government without any shadow of doubtful construction. Your explanation of 'Municipal Regulations' however correct in regard to the police laws of incorporated Towns and Cities, is not applicable to the true situation of this Nation that claims for itself and always maintains sovereign jurisdiction over its territorial rights, you say, that to make it more plain, I will give you an example: The people living in a Territory apply to the Legislature of their state to be incorporated, and it is granted and a law is passed defining &c.' This Nation by its own Legislature authorized and recommended the adoption of a Republican Constitution, which has been done. It has no relation or connection to the United States, to ask of it, its consent, being connected only to the United States alone, by treaty. And as this Nation never surrendered her rights to self Government or the exercise of its internal and domestic relations, it was needless to ask for it from the General Government, whom, as a generous nation, our improvements and legislation for ourselves could not possibly be a subject of misapprehension, or a subject of dispute.—As to your views of certain provisions of our treaty with the United States, we do not deem it necessary at this time, to repeat 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 been directed to your advice, for which you will accept of our sincere thanks, and please to accept of our assurances of respect and esteem from your friends and Brother.

(Signed) WILLIAM HICK

JOHN ROSS.