

Mr. Jefferson's Speech to the Cherokees.

*My Children, Deputies of the Cherokee Upper Towns,*

I have maturely considered the speeches you have delivered me, and will now give you answers to the several matters they contain.

You inform me of your anxious desires to engage in the industrious pursuits of agriculture and civilized life; that finding it impracticable to induce the nation at large to join in this, you wish a line of separation to be established between the upper and lower towns, so as to include all the waters of the Hiwassee in your part; and that having thus contracted your society within narrower limits, you propose, within these to begin the establishment of fixed laws and of regular government. You say that the lower towns are satisfied with the division you propose, and on these several matters you ask my advice and aid.

With respect to the line of division between yourselves and the lower towns, it must rest on the joint consent of both parties. The one you propose appears moderate, reasonable and well defined; we are willing to recognize those on each side of that line as distinct societies and if our aid should be necessary to mark it more plainly than nature has done, you shall have it. I think with you that on this reduced scale, it will be more easy for you to introduce the regular administration of laws.

In proceeding to the establishment of laws, you wish to adopt them from ours, and such only for the present as suit your present condition; chiefly indeed those for the punishment of crimes and the protection of property. But who is to determine which of our laws suit your condition, and shall be in force with you? All of you being equally free no one has a right to say what shall be law for others. Our way is to put these questions to the vote, and to consider that as law for which the majority votes—the fool has as great a right to express his opinion by vote as the wise; because he is equally free, and equally master of himself.—But as it would be inconvenient for all your men to meet in one place, would it not be better for every town to do as we do—that is to say: Choose by the vote of the majority of the town and of the country people nearer to that than to any other town, one, two, three or more according to the size of the town, of those whom each voter thinks the wisest and honestest men of their place, and let these meet together and agree which of our laws suit them. But these men know nothing of our laws.—How then can they know which to adopt? Let them associate in their council our beloved man who lived with them. Col. Mcligs, & he will tell them what our law is on any point they desire. He will inform them also of our methods of doing business in our councils so as to preserve order, and obtain the vote of every member fairly. This council can make a law for giving to every head of a family a separate parcel of land, which, when he has built upon and improved it, shall belong to him and his descendants forever, and which the nation itself shall have no right to sell from under his feet. They will determine too what punishment shall be inflicted for every crime. In our states generally, we punish murder only by death, and all other crimes by solitary confinement in prison.

When you shall have adopted laws, who are to execute them? Perhaps, it may be best to permit every town and the settlers in its neighborhood attached to it, to select some of their best men, by a majority of its voters, to be judges in all differences, and to execute the law according to their own judgment. Your council of representatives will decide on this or such other mode as may best suit you. I suggest these things, my children, for the consideration of the Upper Towns of your nation, to be decided on as they think best, and I sincerely wish you may succeed in your laudable endeavors to save the remains of your nation, by adopting industrious occupations and a government of regular law. In this you may always rely on the council and assistance of the government of the United States. Deliver these words to your people in my name, and assure them of my friendship.

TH: JEFFERSON.

January 9th, 1809.