

COMMUNICATIONS, 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 titeratim.

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 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 [sic], 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 [sic] to understand that this act of theirs, cannot be considered in any other light, then as Regulations of purely municipal Character--And which he wishes them distinctly to understand, will not be Recognized, and Changing any one of the Relations under which they stood to the

General Government, prior to the adoption of said Constitution."-

These are all words which he has directed me, to say to you-- They Contain but two sentences--both of which are delivered with Considerable emphasis [sic],---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 municipale [sic] 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 there [sic] State to be incorporated, and it is granted, A Law passes defining [sic] their Corporate boundaries [sic], and authorizing them to Elect concillars [sic], to make such ordinances, or By Laws, as they deem necessary for the Govourment [sic], 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 millitate [sic] against, or impede, the Regular administration of the Laws of the State,---over that same Teretory [sic] and people.

A word or two now as to the Relations, under which you stood to the General Govourment[sic], 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 [sic] 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 & privalleges [sic], which they previously & while in a savage state enjoyed.- and Received in Lieu thereof, what was believed by your Fathers, to be an Equivellent [sic],

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 [sic] 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 Regulations;-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 inforce [sic] a complience [sic] with contracts made between two Indians,-nor to punish one Indian, for an Offence Committed against an other;-within the Indian Teretory [sic].--on the Contrary, I find in the 2nd section of an act passed the 3rd march [sic] 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 [sic] & 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 by 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 [sic] committed against another.---and to make such other Regulation as in your Judgement will promote good order in society [sic] 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, 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 [sic]---

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 [sic] period in your existence [sic], 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 Carefully, and tread it cautiously.---

Hold your Great Father the President fast by the hand don't0 move a single step in any new path, without his Council, and advice.- a proper course taken at this time and pursued steadily [sic]; may (with Heavens Blessing) lead you to Greatness and Renown;- But one wrong step may be fatal and Remediless [sic].--

Let your path be such as to secure the friendship and protection of the United States; & cultivate the friendship of the surrounding states; Live in peace and friendship amongst 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 [sic].

H. MONTGOMERY.

Agency Cherokee Nation,
April 16, 1828

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 a clamour in the adjoining states, especially when there was no just cause for it, as is evidenced from the manner in which Congress disposed of the

subject, when it was introduced before that 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 as regulations purely of a municipal 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 opinion, that 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 lawful treaties between the United States and this Cherokee Nation shall be the supreme law of the land. This proves, the view of this Nation as 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 or by laws of incorporated Towns and Cities is inapplicable to the true situation of this Nation that claims for itself 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 incorporated and it is granted and a law passes defining &c." This Nation by its own Legislature authorized and recommended the adoption of a Republican Constitution, which has been done. It had no relation or connection 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 Legislation for ourselves could not possibly afford any misapprehension, or a subject of disapprobation.--As to your views of certain passages of our treaties 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