

TT 555, 12 OCT, 1824.

CHEROKEE CONSTITUTION.
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COMMUNICATION TO THE CHIEFS OF THE CHEROKEE NATION 16 APRIL, 1825.

Friends and 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 that 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 & privileges, which they previously & 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 Lieu thereof, Received their protection;—In life, liberty and property;—But in none of your Treaties 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 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 municipal 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, 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 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 Carefully, and tread it cautiously.—

Hold your Great Father the President fast by the hand don't move a single step in any new path, with out his Council, and advice.—a 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 Remediless.—

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.

H. MONTGOMERY.

Agency Cherokee Nation,
April 16, 1825.

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.

FOR THE CHEROKEE PHOENIX.

The execution of Sway Back a Cherokee at Crawfish Court House for the murder of Murphy under the sentence of Judge Brown, is an additional event of the strict prosecution to some of the Cherokee laws. The circumstances of this murder appears to have had its origin in a drinking frolic, and committed during a state of extreme intoxication. The parties prior to this melancholy catastrophe had been known to have maintained the common habits of friendship. Hence no cause of malevolence is assigned to give the least countenance for the commission of this palpable homicide. The weapon which he employed, was a large oak stick cut for the purpose of fire wood, on which had been left some pointed knots from trimming its boughs, with this instrument of considerable weight, the criminal advanced unobserved behind Murphy's back, who was seated near a fire, deliberately and forceably made a blow on the juncture of the neck and head, which nearly crushed to pieces the back part of the cranium, with this destructive blow death followed as an inevitable consequence. There were other Cherokees indulging themselves in a similar intemperance at the same time and place, on discovering the murder, they secured the criminal with fetters around the legs and hands, and kept him in this confinement until the marshal took him in possession. But during this affecting occasion when the marshal was about to proceed with him towards the place of trial, he begged permission of the officer to speak the last words to his child of two or three years old, though delivered hastily, yet reflects much credit on the affection of a Cherokee. Permission being given, embraced his child, and observed, I am speaking the last words—I am on my way to my place of trial and death—if I die it will be at court and not before—but if I live, it will be after court when life shall have been continued and to me newly exist again—Farewell. How far his secret monitor of wright and wrong operated a punishment in consequence of his crime, may be learnt from the remarkable fact, that from the time he committed the offence until his trial, which was nearly two weeks, was not known to have shewn the least uneasiness of his crime or danger, a stranger to inquietude and unconcerned in regard to his approaching fate. During his trial on being asked if he had any objections to any of his jurors, he replied with calmness and apparently without solicitude, that there were none to whom he objected, for said he, I know nothing of my act.—After a short trial and painful as it is to relate, it is nevertheless true, that he was condemned to die, by the testimony of his own wife preponderating to the truth of the crime. But during the solemn and may be added to him an awful investigation, continued without confuse, but inspired by the poetical line, "the sons of Alkno-mock will never complain."

We are informed that the criminal was to be executed by hanging.

REMARKS ON MATTHEW CHAP. IV.

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To make this more plain, I will give you an example—the people living in a Town, apply to the legislature of that 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.

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