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Resolutions of the Legislature of Georgia, in Relation to the American Colonization Society, February 4, 1828

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RESOLUTIONS

OF

THE LEGISLATURE OF GEORGIA,

IN RELATION

TO THE

AMERICAN COLONIZATION SOCIETY.

—◆—
FEBRUARY 4, 1828.

Printed by order of the Senate of the United States.

—◆—
WASHINGTON:

PRINTED BY DUFF GREEN.

1828.

EXECUTIVE DEPARTMENT, GEORGIA.

MILLEDGEVILLE, *January 24, 1828.*

GENTLEMEN:

The enclosed is transmitted to you, in compliance
with the request of the Legislature of the State.

I am, gentlemen,

Your obedient servant,

JOHN FORSYTH.

The Honorable,

The SENATORS OF THE STATE OF GEORGIA,
In the Congress of the United States,
WASHINGTON.

REPORT.

IN SENATE, DECEMBER 5, 1827.

The Joint Committee on the state of the Republic, to which was referred the resolution of the Senate, instructing an inquiry into the right and propriety of the Congress of the United States appropriating money from the public Treasury of the Union in aid of the Colonization Society,

REPORT:

That, assuming as a fact well known to this Legislature, that the American Colonization Society has declared its intention to make application to the Congress of the United States for an appropriation in aid of its funds, your committee believe that the time has arrived, when it becomes the imperious duty of the General Assembly of Georgia, *gravely* and *firmly* to enter its protest against the *right* of Congress to make such appropriation. If, on the final adjournment of that great assemblage, which formed the Constitution of the United States, any one had declared that the genius, the wisdom, and the patriotism there combined, had totally failed to effect the object of the convention; that, instead of creating a government of limited powers, they had, by the careless insertion of a few words, vested that government with absolute and unlimited sovereignty, *that man* would have been laughed at for his folly, or branded as a demagogue. It is true that some *did* apprehend and predict, that as the new government advanced from infancy into the full vigor of life, attempts would be made to grasp by construction, those powers which had not been expressly granted by the convention: but the great mass of the people believed, that the terms of the grant were too well defined to admit of construction; and that, if there was a serious objection to the constitution, it existed the rather in leaving the federal government too weak and defenceless, to resist the encroachments of the States. Against this alleged error of the great majority, a few voices were heard *warning* the people of *that* error: these *warnings*, like the warnings of the prophets of old, were disregarded or forgotten, and it is only *now*, when time has made them *prophecies*, and those prophecies are in the act of fulfilment, that the wisdom and foresight of those great men who gave them utterance, have been generally acknowledged in the Southern States: it was *only when*, in a recent difference between the federal government and the State of Georgia, the chief magistrate of that government, embolden-

ed by the silent acquiescence of the States in its gradual encroachments, had declared his *right*, and the right of Congress, to settle that difference by the sword of the Union; it was *only when* the then chief magistrate of this State, *guided* and *actuated* by the purest and most *devoted feelings* of affection for that Union, and by his *right* and *just* sense of his high responsibilities, threw himself fearlessly upon the ramparts of the constitution, there to sacrifice himself in its defence; it was *only when* the States to the East, the North, and the West stood by this scene in silence, forgetful of their own deep interest in that contest, or, if a voice was raised, *that voice* was an approval of the threatened violation of *rights* common to *them* and to *us*; it was *only when* those States seemed to have forgotten that part of the compact, by which all the States became mutual guarantees of the rights reserved to each; it was *only then*, that the people of the south were aroused from their fatal lethargy; and it is *only now* that they begin *deeply* to *feel* that the preservation of their happiness and prosperity depends upon the preservation of that Constitution, as it came from the hands of its makers—and feelingly to know, that this can *only* be effected by union among themselves; and by a *firm* determination, and manly resistance to any attempts to merge these free and sovereign States into one grand, unlimited, consolidated government.

It was from these views, and these convictions, that your committee have deemed it their duty to give to the subject submitted, the most grave and serious investigation; and although, in the discharge of this duty, they can hope to present but little which is new, yet they hope they will have effected the object of their appointment, if they succeed in compressing, within a narrow compass, the opinions and arguments of others, which they believe to be irrefragable.

The federal compact was a compact made between independent sovereignties, for the general benefit and welfare of the whole, by which each, to effect that object, relinquished to a common head, portions, and like portions, of its sovereign power; reserving to itself the exclusive enjoyment of the residue; and by which all became mutual guarantees to each, of the absolute and exclusive enjoyment of that residue. It was an association of independent and absolute sovereignties, all believing, that by the concession of certain of their powers, which could not be fully and separately exercised by each, without interfering and clashing with the exercise of the same powers by others, those powers, so conceded, could be exercised most beneficially and efficiently for all. Such were the powers, and the *only powers* relinquished, or intended to be relinquished by the States; and all the powers which could be exercised by each, in a way sufficiently beneficial, and without clashing or interfering with the exercise of the same powers by the others, were intended to be retained, and *were retained* by the States in their separate capacities. If this was the true intent and meaning of the parties in framing and executing that compact, and your committee cannot doubt that it was, *then* it irresistibly follows, that Congress cannot, by *implication*, derive from that compact power to do *any act* which can interfere with the just and full exercise, by

the States, of powers, which each *can, within* itself, exercise in a way sufficiently beneficial to itself, without clashing or interfering with the full exercise of the same powers by any other State within itself: such are the powers of each State to make roads and canals, and regulate its slave population within its own limits; whenever, therefore, it shall become a question whether a particular power is vested in the general government, such question can always be determined by reference to this test.

But it is not the intention of your committee to enter into the discussion, on the present occasion, of what are the powers granted, or what retained by the States; or whether the federal government possesses other powers than those expressly defined in the constitution; for they deem such discussion in its full extent, wholly unnecessary to a correct decision on the inquiry submitted to them. The question is, has Congress power to appropriate money out of the common fund to aid the Colonization Society, or for objects to attain which, that society was established? The most strenuous advocates of the rights and powers of the federal government have never ventured to contend, that it is other than a government of limited sovereignty: they have contented themselves with insisting *only*, that in addition to the powers expressly granted, it possesses all powers necessary for carrying into full effect those given powers; and in a few instances, apparently trifling in themselves, but of immense magnitude when taken as precedents, (finding that these sources of power have failed to sustain them,) they have sought for shelter under the flimsy covering of the words in the 8th section, 1st article, "provide for the common defence and general welfare of the United States." Such is the case now under consideration. No one can have the hardihood to contend, that there is a word in the constitution which expressly gives to Congress the power to make the appropriation in question; or that the exercise of such power is necessary for the full and effectual exercise of any power expressly granted; nor is there, in that constitution, any other clause than the section above referred to, which, by any construction, could be strained into a grant of such power. On these words, then, are the advocates of this appropriation compelled to rest the issue of their cause; and on the intent and meaning of these words, as applicable to that issue, your committee are prepared to join in *that* issue.

It will scarcely be contended, that the establishment of an African Colony, at the distance of three thousand miles, on a barbarous and pestilential shore; or that the liberation of the slave population of the south, is necessary or essential to the common defence; nor do your committee believe, if those objects were effected, that they would be for the general welfare of the Union. The establishment of distant colonies would, by extending our relations, multiply the causes of foreign wars; and the existence of slavery in some of the States, cannot, as your committee can perceive, influence in any manner, the internal prosperity or affairs of the other and distant States; on the other hand, they believe, that the liberation and transportation of the slave population, even if it could, by any possibility, be effected, would impoverish

and depopulate the southern section of our country, while it would diminish the welfare of the negroes themselves.

But it is not the intention of your committee to inquire into the expediency of the measure; for it has been well and truly said by one who has felt and thought deeply on the subject, that to rest the exercise of the power in question on its expediency, is to give up the right, and to subject ourselves at once, to all the evils and mischiefs consequent upon its exercise. Your committee have based the issue on the ground of right; they deny the power of Congress to make such appropriation; and they say, that if the question of power is to be determined by construction, and by construction alone can it be claimed, then they say, that it is manifest on the face of the constitution itself, that the convention intended to prohibit Congress from the exercise of such power. It has been ably argued by a writer in an adjoining State, and as your committee believe conclusively, that the words "general welfare," above referred to, are words of limitation, and not of grant of powers; that they do not give Congress a right to appropriate money at its discretion, but limit that body to such appropriations as are for the welfare of the whole Union. But your committee deem it unnecessary to examine what are the appropriations which Congress can constitutionally make under these words, whether they be words of limitation or not, but will confine themselves to the question, whether from other provisions of the constitution, the clause can, in either case, be relied on to prove, that it was the intention of the convention, by the insertion of those words, to give the power to Congress to make the appropriation in question.

If your committee are correct in the opinion, that the convention meant to grant to the federal government only those powers which could be fully and efficiently exercised by a single sovereign, and which could not be fully and separately exercised by the States individually, without clashing and interfering with each other; and that all other powers were reserved to the States respectively; and if this separation and designation of powers was deemed so important, that by an amendment of that Constitution, it was declared in express terms, that the powers not delegated to the United States, should be reserved to the States respectively, or to the people: then it follows that it could never have been the intention of the framers of that instrument, to grant to the federal government any power to appropriate money in a manner which could interfere with, disturb, or control, the States in their fullest exercise of the powers reserved to them. But your committee believe that such argument, on general principles, will become unnecessary to the support of the position which they have taken, if they can produce a clause in the Constitution, of reservation by the States, which would be rendered absurd, and worse than useless, provided the Convention intended under that clause of the 8th section of the 1st article to give to Congress the power contended for. Where the meaning and effect of every word was carefully weighed and re-weighed, and examined before its insertion; where every word thus carefully inserted, was afterwards jealously and severely scrutinized by

thirteen assemblies of the wisest and best men in their respective States, each vigilantly watching and guarding their own local interests and circumstances, it can scarcely be believed, that two clauses would be inserted and permitted to remain, one of which would operate to defeat, and finally to destroy the whole object of the other; yet such must inevitably be the result, if the construction insisted upon be correct.

At the first establishment of the Colonization Society, whatever may have been intended or avowed as its object, your Committee believe that they can say with truth, that the general impression in the southern States as to that object was, that it was limited to the removal beyond the United States of the then free people of color and their descendants, and none others. Under this impression, it at once received the sanction and countenance of many of the humane, the wise, and the patriotic among us. Auxiliary societies were formed in our own State, and the numbers, the influence, and the resources of the Society, were daily increased. It is now ascertained that this impression was false; and its officers, and your Committee believe the Society itself, now boldly and fearlessly avow, that its object is, and ever has been, to remove the whole colored population of the Union to another land; and to effect this object, so wild, fanatical, and destructive in itself, they ask, that the general fund, to which the slave-holding States have so largely contributed, should be appropriated for a purpose so especially ruinous to the prosperity, importance, and political strength, of the southern States.

That the people of the south, at the time of the adoption of the Constitution, considered not only the retention, but the increase of the slave population, to be all-important to the welfare and interest of their States, is manifest from a reservation in that instrument itself, which, it cannot be doubted, was inserted on their express requisition. By the first clause of the ninth section of the first article, it is provided, "that the migration or importation of such persons as any one of the States now existing shall think proper to admit, shall not be prohibited by the Congress, prior to the year eighteen hundred and eight." Who were the persons here meant? Africans. And for what purpose were they to be imported, and into what States? They were to be imported to be held in slavery in the southern States. Who then were the parties interested in making such reservation? The people of the south, and they alone. What was the motive of those people in insisting upon the reservation of the right to make such importation for twenty years? Unquestionably to increase that species of population. Why increase it? Because they believed it to be essential to the improvement, welfare, and prosperity of their section of the country; and upon the numbers of which, by another provision of the Constitution, the weight of the southern States in the general council in part depended. If such were the motive, and what other could there have been for the insertion of that reservation, can it be believed that those very people meant, by another clause, to give to Congress the power to appropriate money out of the

common fund to which they were so largely to contribute, for the purpose of again removing that very population, the right to increase which was so carefully reserved; that they insisted upon retaining the right to import Africans, merely again, and in part at their own expense, to re-export them to the shore from whence they had been brought! Yet such would be the effect of the constructive power contended for. Your committee now ask, if it can be believed, for a moment, that it was the intention of the convention under those general words of the 8th section of the first article, to give to Congress a power to appropriate the common fund to the removal of the slave population of the country?

Your committee have done with the argument. It has been presented with the sole view of satisfying the people of Georgia, that their representatives, here assembled, in entering a protest against the exercise of such power, are justified in such proceeding by the Constitution itself; and not with any hope or expectation of changing the settled purpose of those, who, from selfishness or fanaticism, are urging Congress to the exercise of this power; or who, from morbid sensibility, or ignorance of circumstances, or indifference to the effect upon us or our colored population, are using every means in their power to render that people discontented with their present situation; a situation far preferable, as your committee believe, in point of ease and comfort, and nearly as independent as that of the white laborers of the Northern or Eastern States, or of any nation in Europe

Your committee cannot avoid reprobating the cold-blooded selfishness, or unthinking zeal, which actuates many of our fellow-citizens in other States, to an interference with our local concerns and domestic relations, totally unwarranted either by humanity or constitutional right. Such interference is becoming every day more determined and more alarming. It commenced with a few unthinking zealots, who formed themselves into abolition societies; was seized upon by more cunning and designing men for political purposes; and is now supported by more than one of the States, as is evident from the amendments of the Constitution proposed by legislative bodies, and so frequently, and indeed insultingly presented for our approbation. The result of such interference, if persevered in, is awful and inevitable. The people of Georgia know and strongly feel the advantages of the federal Union. As members of that Union, they are proud of its greatness—as children born under that Union, they love it with filial affection—as parties to that Union, they will ever defend it from foes, internal or external; but they cannot, and will not, even for the preservation of that Union, permit their rights to be assailed—they will not permit their property to be rendered worthless—they will not permit their wives and their children to be driven as wanderers into strange lands—they will not permit their country to be made waste and desolate, “by those who come among us under the cloak of a time-serving and hypocritical benevolence.” But how is this increasing evil to be met and remedied? Nothing can be hoped from remonstrance—the judicial tribunals of the Union cannot reach it—our own Legislature can by no

enactment prevent it. How, then, is this evil to be remedied? Only by a firm and determined union of the people and the States of the south, declaring, through their legislative bodies, in a voice which must be heard, that they are ready and willing to make any sacrifice, rather than submit longer to such ruinous interference; and warning their enemies that they are unwittingly preparing a mine, which once exploded, will lay our much-loved country in one common ruin. Your committee hope that such a calamity is yet far distant, and that there is still remaining in the Congress of the Union sufficient discretion, intelligence, and patriotism, to avert it altogether. With that hope, they deem it unnecessary now to do more than to recommend the adoption of the following resolutions:

Resolved, by the Senate and House of Representatives of the State of Georgia, in General Assembly met, That the Congress of the United States have no constitutional power to appropriate moneys to aid the American Colonization Society, or for objects to effect which that Society was established; and that this Legislature, representing the feelings and will of the people, and the sovereignty of the State of Georgia; in the name and in behalf of the State of Georgia, denying the right, solemnly protest against the exercise or any attempt to exercise such unconstitutional power, by the Congress of the United States.

And be it further resolved, That copies of the above report and resolution be forwarded to our Senators and Representatives, in the Congress of the United States, and that our Senators be instructed, and our representatives be requested, whenever circumstances may render the same necessary, to present the said resolution to both Houses of Congress, as the protest of the State of Georgia against the right of Congress, constitutionally to appropriate moneys in aid of the American Colonization Society.

And be it further resolved, That a copy of the above report and resolutions be forwarded to the Governor of each slave-holding State of the Union, with a request that the same shall be laid before the respective Legislatures, asking their concurrence in such constitutional mode, as to them shall seem best, to prevent the exercise of such power by the Congress of the United States.

Read and agreed to. THOMAS STOCKS, *President*.
Attest: WM. Y. HANSELL, *Secretary*.

IN THE HOUSE OF REPRESENTATIVES.

December 24, 1827.

Read and concurred in. IRBY HUDSON, *Speaker*.
Attest: WM. C. DAWSON, *Clerk*.

Resolutions approved, *Dec. 28 1827.*
JOHN FORSYTH, *Governor*.