28th Congress, 1st Session. Rep. No. 469. Ho. of Reps.

AFRICAN SLAVE-TRADE.

May 4, 1844.
Read, and laid upon the table.

Mr. Rhett, from the Committee on Foreign Affairs, made the following

REPORT:

The Committee on Foreign Affairs, to whom was referred the petition of the American Colonization Society and others, respectfully report:

That the only two specific prayers contained in the above petition, are—

1. That an appropriation of fifteen or twenty thousand dollars should be made by Congress, in aid of the American Colonization Society, to enable them to purchase, from the natives, all the territory on the coast of Africa lying between Cape Mount and Cape Palmas, being about three hundred miles in extent.

2. That a political and commercial agent should be appointed by the Government of the United States, with the power of making treaties, in behalf of the Government, for the purchase of territory in Liberia, and to suppress the African slave-trade.

Your committee have duly considered the above propositions, and they have come to the conclusion that Congress has no constitutional power to grant the first; nor the second, excepting in a very modified sense; and that, if it possessed the power, it would be inexpedient to grant either.

In order that the powers and duties of the General Government, with respect to these propositions, may be clearly understood, it will be necessary to consider, *first*, the relation of this colony to the State of Maryland; and, *secondly*, its relation towards the General Government.

The State of Maryland has granted a charter of incorporation to the American Colonization Society, under which it professes to act. This society has purchased and owns all the territory on which the emigrants from the United States have settled. It has *granted* a constitution to the emigrants. By this constitution, the governor is appointed by the society, to hold his office at the pleasure of the society. The governor and a council are empowered to make laws and treaties, coin money, declare war, &c., but all treaties and laws are subject to the approval of the society in the United States. It will be admitted, that if the State of Maryland cannot constitutionally establish such a colony, it cannot impart the power to others. Does the State possess it?

There are two ways by which colonies have usually been established and controlled: 1st. By government, through its immediate agents; and, 2d. By chartered companies. Canada and the West India islands are examples of the first, and the East India and Hudson Bay companies are examples of the second of the two methods of rearing colonies. Both of these

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methods, being carried out by the citizens of a country, duly authorized by its Government, involve the right to protection by their Government on the one hand, and the duty of affording such protection on the other. These colonies are in fact *a part* of the country to which they belong, and are to be supported and defended by treaties and wars, as much as any other portion of it; and the history of nations shows that some of the most desolating wars recorded in its pages have arisen from colonies existing in both forms of colonization. Has a State, in our system of government, the power of establishing colonies by either mode, and, as a necessary consequence, the power of making treaties and carrying on wars for their protection and defence?

When such a power is claimed for a State, obviously involving the peace of the Union, it ought to be clearly shown. War by a State with any foreign nation, is war on the part of the whole Union, which is bound by the guarantees of the constitution to defend her.

Your committee, on looking into the constitution, find that not only is no such power left with a State, but that the power to make treaties or war is expressly taken from the States. No State can make any "treaty, alliance, or confederation," or enter into any agreement or compact with another State, or with *a foreign power*, or "engage in war," unless actually invaded. The power to declare war is as expressly conferred by the constitution on Congress, where all the States are represented; and the power to make treaties is conferred on the President and the Senate, where also all the States are represented. As the making of war must be a war of all the States, who are bound mutually to defend each other, and treaties are the great instruments of peace, as well as occasions of war, the constitution took these powers from the separate States, and conferred them on all—in their General Government. The charter of incorporation by the State of Maryland to the American Colonization Society, involving such powers on the part of the company, is, therefore, null and void. This State could not establish a distinct colony, entitled to her protection. She could not authorize it to make treaties and carry on wars by a company, or any other agency, because she could not do those things herself. No charter of incorporation could operate beyond her own limits. The colony established in Liberia is no part of her; it consists of expatriated individuals, who may make treaties and carry on wars on their own responsibility, having no connexion whatever on the coast of Africa with the State of Maryland.

Having thus shown that the colony of Liberia has no connexion with the State of Maryland, its relation towards the United States is also determined, so far as the action of this State is concerned. The General Government, implicated by no legitimate State authority, has nothing to do with it; nor does the duty of protection, which the Government of the United States owes to its citizens everywhere, at all apply to the inhabitants of Liberia. They are not citizens of the United States; they exist and live under a government regularly organized, with all the powers and attributes of sovereignty, bearing politically the same relation to the United States as to Great Britain, and independent of both. The Parliament of Great Britain, consisting of king, lords, and commons, is omnipotent in legislation, and therefore could make appropriations of money in aid of this colony; but, by the constitution of the United States, Congress has no powers but those conferred by its provisions. To justify an appropriation of money, it must be shown that the appropriation carries out some one of the

specified duties or purposes it prescribes. To aid corporations or individuals in commercial, benevolent, or charitable enterprises, is found nowhere in its provisions. If Congress possessed such a power, its exercise would soon bring the Government to an end. It would be nothing but a grand almoner for the charities of the Union. The innumerable societies and corporations within the Union would soon leave but little to be applied to those of foreign operation; and those abroad would take in the five continents in their boundless scope.

But your committee are aware that it would not be meeting the questions which the American Colonization Society would present, by merely considering their present attitude towards the General Government. They are prepared to be dependent on and united with the Government, and to take any position which will accomplish this object. They ask, Can Liberia not be united with the Government? Can it not be its colony?

Your committee can see, in the constitution of the United States, no power to establish and hold colonies dependent on the Union. There is a provision for an incorporation of new States into the Union; and, from the latitude of the phrase, "new States may be admitted by Congress into the Union," together with the history of this phrase in the convention which made the constitution, your committee does not doubt that any new States, whether arising within the territory owned by the United States or not, may be admitted into the Union. But they can find no power in the constitution to establish and hold colonies. The Union is a union of States. In constituting the whole body of representation in the House of Representatives and in the Senate, provision is only made for representation *from States*. The President is elected by the people *of States*. The judiciary is empowered to determine only on cases arising *between States* and *citizens of States*. The power to establish and hold colonies, by taking from the States the power of making treaties, or alliances, or war, is denied to the States, to whom it belonged; but is nowhere conferred on the General Government. The guarantees of protection and defence, and a republican form of government, are *to States*.

Your committee are at no loss to comprehend these features of the constitution. To have distant and embarrassing dependencies, was inconsistent with the objects for which the Union was formed and the constitution was made. The object of the union of the States was liberty and peace. There could be no security *for peace*, if distant and irresponsible dependencies could at any time involve the Union in war, by contests with foreign nations. There could be no security *for liberty*, if foreign contests and wars could unsettle the government at home, and, by enlarging the sphere of executive authority, the creation of debts, and engendering a spirit for conquest and power, make an ambitious, instead of a powerful and free people. The whole scope of the constitution is inconsistent with the policy of establishing or holding colonies.

Our relations with the Indian tribes on our frontiers have been referred to, as vindicating the power of the United States to establish and hold colonies. But your committee apprehend that these relations justify no such opinion. The Indian tribes are not colonies of the United States. They are even not dependent on the United States. All the stipulations for protection, or money, made by our treaties with our Indian tribes, have been fairly and richly purchased. The Indians were tenants of the soil within the Territories and States of the United States. They have stipulated to

surrender their occupancy, on condition of receiving certain equivalents in money and lands elsewhere. They inhabit these lands under the control of their own customs and laws, and they receive the money stipulated to be paid them by their treaties with us, as their right and due. We are their debtors—that is all; and they are our creditors. This relation has sprung up from the circumstances of the country, and the regular operation of the constitution. Our lands were inhabited by Indians dangerous to the peace and security of the white inhabitants, whom the Government was bound to protect and defend. New States have arisen, to be admitted into the Union; and to prepare them for admission, as well as to protect them, was the duty of the Government. On Congress is conferred the "power to dispose of and make all needful rules and regulations respecting the territory belonging to the United States." From such powers, and such a state of things, have arisen the Indian settlements on our western frontier. The Indians inhabiting them are not colonists, but creditors and allies.

Your committee, having thus briefly exposed the grounds of their opinion as to the constitutional powers of the State of Maryland and the General Government involved in the prayers of the petitioners, will advert to the circumstances under which these prayers are made. Amongst the papers referred to your committee, is a correspondence between the minister from Great Britain and our Secretary of State. It appears that difficulties have arisen on the coast of Africa between British traders and the Government of Liberia. The Government of Liberia claims jurisdiction over the coast, from Cape Palmas to Cape Mount. The traders of Great Britain claim the right of buying territory and establishing trading factories at Bassa Cove and other points on the coast. They refuse subjection to the colony, and claim the protection of the Government of Great Britain. The French have also made a purchase of territory, and are opening commercial relations at Senegal, etc. Here are points of dispute at once with two of the most powerful nations of the world. They involve nice questions of the laws of nations. How far, for instance, does taking possession of a barbarous country extend to the exclusion of other civilized nations? On the coast of Africa, there can be no right from *first* discovery. The country has been known for centuries, and has been in commercial intercourse with all the leading commercial nations of the world. Has this continued intercourse given no rights? and will the nations which have enjoyed them be debarred by irresponsible treaties with barbarous tribes, by which, for inconsiderable sums of money or favors, hundreds of miles of the coast of Africa are closed to the enterprise of their citizens? Where shall the boundaries of dominion extend, without maps or surveys, to obviate collision, and establish the right to appropriate the trade of the native tribes by sea and land? Many such questions must arise. The growing commerce with all nations on the coast of Africa, depicted by the petitioners, only shows that it will not be surrendered but to distinct right or power. If it was within the constitutional competency of the Government of the United States to possess Liberia, would it be expedient to involve the Union in the contests with foreign nations which have already arisen, and the many more which must in future arise, necessarily, incident to its possession? Your committee think not. Fortunately, however, for the peace and prosperity of the Union, it is no question of expediency. The General Government has no power to make appropriations for the benefit of the American Colonization Society. It has no power to make appropriations to colonize, or

aid the colonization of, Liberia. It has no power to appoint an agent to make treaties for the benefit of this society, or apply money belonging to the people of the United States for their use or advantage. It has the power of protecting the commerce of the United States in all quarters of the world; and for this purpose, to appoint commercial agents, to see to the commercial interests of our citizens in Liberia or in any other port of Africa; but the presence of an American squadron with upwards of eighty guns renders it, at present, entirely unnecessary to appoint any such agents on the coast of Africa.

Whilst your committee are thus compelled to report against the prayers of the petitioners, they beg leave to express their sincere respect for the highly patriotic and benevolent motives with which they are inspired in making their requests. However great and valuable their enterprise, your committee are satisfied that even they would deem it dearly won, at the expense of the integrity of the constitution, or the peace and continuance of the Union.

The committee report the following resolution to the House, for its adoption:

Resolved, That the Committee on Foreign Affairs be discharged from the further consideration of the petition of the American Colonization Society, and others, praying the intervention of Congress, and an appropriation of money in aid of said society.