

The Board of Managers of the Society took up the question of the formulation of a Constitution for the Settlement. A committee was appointed to draw up a Constitution and a set of Instructions to the Agent.

At a meeting of the Board held on June 26, they adopted the following resolutions:⁴

Resolved, that the Board of Managers approve the letter written by the Committee to their Agent, Mr. Crozer, and the Instructions and Constitution prepared by them, and sent out for the government of the Settlement in Africa.

Resolved, that the aforesaid Constitution and Instructions be referred to the Acting Committee for revision.

Resolved, that the Acting Committee be requested to wait on the Secretary of the Navy and solicit the employment of a vessel near the Settlement at Sherbro.

Resolved, that the same Committee write to our Minister in London, requesting him to inform the Board of Managers of the African Institution, of the Settlement on the Coast of Africa, and of the views of the Society, so as to prevent any misconception of our object and preserve a mutual good understanding between our Agents and people and those of the British Colonies on that Coast.

The text of the Constitution adopted at this meeting is as follows:⁵

*Constitution
For the
Government of the African Settlement at*

ARTICLE 1ST.

All persons born within the limits of the territory held by the American Colonization Society in _____ or removing there to reside, shall be free, and entitled to all the rights and privileges of the free people of the United States.

ARTICLE 2.

The Colonization Society shall, from time to time, make such rules as they may think fit for the government of the Settlement,

⁴ Ms. A. C. S. Min. of Board of Directors, I, 90.

⁵ *Ibid.*, 97-99.

until they shall withdraw their Agents, and leave the settlers to the government of themselves.

ARTICLE 3.

The Society's Agents shall compose a Board, to determine all questions relative to the government of the Settlement, shall decide all disputes between Individuals, and shall exercise all judicial powers, except such as they shall delegate to justices of the Peace.

ARTICLE 4TH.

The Agents shall appoint all officers not appointed by the Managers, necessary for the good order, and government of the Settlement.

ARTICLE 5TH.

There shall be no slavery in the Settlement.

ARTICLE 6TH.

The common law as in force and modified in the United States, and applicable to the situation of the people, shall be in force in the Settlement.

ARTICLE 7TH.

Every settler coming to the age of 21 years, and those now of age shall take an oath or affirmation to support the Constitution.

ARTICLE 8TH.

In cases of necessity, where no rule has been made by the Board of Managers, the Agents are authorized to make the necessary rules and regulations, of which they shall, by the first opportunity, inform the Board for their approbation; and they shall continue in force until the Board shall send out their decision upon them.

The Constitution was amended at a meeting of the Board of Managers held on December 23, 1820.⁶ At this meeting, on motion by Wm. Thornton, the 1st article of the Constitution for the government of the Settlement was amended by adding after the word "Society" the words "in Africa"—and by striking out the word "the" which occurs

⁶ *Ibid.*, 117, 118.

after the word "all," and inserting "such"—and striking out "of the free people" and inserting "as are enjoyed by the citizens."

On motion by Mr. Caldwell the following was added by way of a new article to the said Constitution:

ARTICLE 9TH.

This Constitution is not to interfere with the jurisdiction, rights, and claims of the agents of the United States over the captured Africans and others under their care, and control, so long as they shall reside within the limits of the Settlement.

On motion by Mr. Wilmer:

ARTICLE 10TH.

No alteration shall be made in this Constitution, except by an unanimous consent of all present at a regular meeting of the Board of Managers, or by a vote of two thirds of the members present at two successive meetings of the Board of Managers.

The title and the first Article contain the necessary omissions of the locality, as the location of the Settlement had not been finally determined. The Constitution itself could not go into operation until territory had been acquired and an actual settlement made.⁷ It was intended to be a law of a territorial state, not of a body of wanderers in quest of a place for permanent settlement.

In order to obtain a complete view of the fundamental concepts underlying the government of the proposed Settlement,⁸ the Constitution of 1820 must be considered in conjunction with the Instructions published by Crozer during the voyage of the *Elizabeth* and the Instructions of December 20, 1819, and June 26, 1820.⁹

The Constitution is not declared to be the supreme law of the land. At most, it imposed a moral duty, a promise on the part of the Society, that, in the exercise of its delegated powers, it would not act in contradiction to its provisions. Practically, even this could not be enforced, as the Society itself had, by delegation, supreme legislative, executive and

⁷ But the commissions of Joseph R. Andrus also empowered him to govern the settlers before the establishment of an actual settlement. See Chap. III *infra*.

⁸ The Constitution uses only the term "settlement"; the Instructions use both this term and the term "Colony" indiscriminately. Legally speaking, the term "Colony" was improper, as the Society was not a political body, a mother country of the settlers, and could not retain the Settlement in a state of political subjection.

⁹ Texts in Chapter I, *supra*.