

MEMORIAL

OF

SUNDRY MASTERS OF AMERICAN VESSELS,

LYING IN

The Port of Charleston, S. C.

FEBRUARY 19, 1823.

Referred to the Committee on the Judiciary.

WASHINGTON:

PRINTED BY GALE & SEATON.

1823.

To the Honorable the Senate and House of Representatives of the United States, in Congress assembled:

The petition of the undersigned masters of American vessels, lying in the port of Charleston, South Carolina, sheweth:

That the mariners employed on board of their vessels, are such persons as the laws of the United States require—native and naturalized American seamen; that many of these are free colored persons, native citizens of the United States; that, on the 21st day of December, 1822, the legislature of South Carolina passed an *Act*, which not only deprives us of the services of our colored mariners, but subjects our vessels to a considerable expense, and detention; and they have provided, by the said *Act*, that, if any vessel shall come into any port or harbor of this state, from any other state, or foreign port, having on board any free negroes, or persons of color, as cooks, stewards, or mariners, or any other employment on board said vessels, such free negroes and persons of color shall be liable to be seized and confined in prison, until the vessel they were attached to shall clear out, and depart from the state; and, when said vessel is ready to sail, the captain or master of said vessel shall be bound to carry away the said free negro, or person of color, and pay the expenses of his detention; and, in case of his neglect or refusal so to do, he shall be liable to be indicted, and, on conviction thereof, shall be fined in a sum not less than one thousand dollars, and to be imprisoned not less than two months; and such free negroes and persons of color shall be deemed and taken as absolute slaves, and sold, in conformity to the provisions of the act, passed on the twentieth day of Dec'r, 1820. That, since the passage of the *Act* of 1822, several vessels, under the command of many of your petitioners, have arrived in the port of Charleston, all of which had on board, as cooks, stewards, or mariners, free persons of color, native citizens of the United States; that, upon the arrival of the said vessels in Charleston, they were visited by the sheriff of Charleston district, or his deputies, and all free persons of color, native citizens of the United States, were seized, (without a writ or any crime alleged) and forcibly taken out of the vessel and lodged in the jail of the state; that, thereupon, one of your petitioners, Captain Jared Bunce, of the Georgia packet, a regular trader between Philadelphia and Charleston, did appeal to a court of the state of South Carolina for a habeas corpus, to inquire into the cause of the arrest and detention of Andrew Fletcher, (steward) and David Ayres, (cook) both free colored persons, and native citizens of the United States; that the said writ being allowed by the said court, and the sheriff having returned that they had been arrested and imprisoned, under the before mentioned *Act*, of 1822, and a motion having been made for their discharge, on the ground that the said *Act* was *contrary to the constitution of the United States*, and the court having de-

terminated that the said *Act* was not unconstitutional, the case in question was removed, by appeal, to the highest tribunal of the state, where, after argument, the said court being divided in opinion, the case was suspended, and the prisoners were deprived of the relief for which they moved; and do still remain in confinement.

The undersigned petitioners have therefore been induced to submit their grievances before the general government, to relieve them from the effects of an *Act* which they believe is in violation of the constitution of the United States, and of the authority of the Federal Head.

That the *Act* in question does destroy the liberty of freemen, and regulates commerce by interfering with the freedom of navigation, and the employment of seamen, must be apparent, when it is seen that the object of it is to expel from all vessels entering the ports of South Carolina all free persons of color.

Your petitioners pray that the government of the United States will interpose in their behalf, and will adopt such energetic measures as will relieve them from the situation they are laboring under, by exposing their free colored mariners to an unlawful imprisonment, and their vessels to an enormous and unnecessary expense and detention.

Charleston, S. C. 7th February, 1823.

Jared Bunce,
William Brown,
Nathan Cook,
Stephen Perry,
Geo. I. Prince,
C. Petham,
Joseph Porter,
Charles Votec,
Daniel L. Kurtz,
John Smith,
John Allen,
James W. Low,
James Newell,
John Taggart,
Cyril Martin,
Joseph Strout, jr.
John Burrill,
Nathaniel Foster,
Wm. Morrill,
Ezra Drew,
Richard Girdler,

James Church,
Reuben Cousins,
William Cole,
Thomas H. Robins,
Joel Johns,
Beriah Waite.
Phineas Drinkwater,
Samuel York,
Joseph Crawford,
C. E. Hammett,
W. W. Bentham,
Thomas Bridges,
Thomas Baker,
Wm. Farnsworth,
James Aney, jr.
Francis Davis,
Joseph Bowditch,
Ozias Budington,
Timothy Wightman,
Elisha Beckwith.

AN ACT for the better regulation and government of Free Negroes and Persons of Color, and for other purposes.

Be it enacted by the Honorable the Senate and House of Representatives now met and sitting in General Assembly, and by the authority of the same, That, from and after the passing of this act, no free negro, or person of color, who shall leave this state, shall be suffered to return; and every person who shall offend herein shall be liable to the penalties of the act, passed on the twentieth day of December, in the year one thousand eight hundred and twenty, entitled "An act to restrain the emancipation of slaves, and to prevent free persons of color from entering into the state, and for other purposes."

And be it further enacted by the authority aforesaid, That every free male negro, or person of color, between the age of fifteen and fifty years, within this state, who may not be a native of said state, or shall not have resided therein five years next preceding the passing of this act, shall pay a tax of fifty dollars per annum; and, in case said tax shall not be paid, the said free male person of color shall be subject to the penalties of the act against free persons of color coming into this state, passed on the twentieth day of December, one thousand eight hundred and twenty.

And be it further enacted by the authority aforesaid, That, if any vessel shall come into any port or harbor of this state, from any other state or foreign port, having on board any free negroes, or persons of color, as cooks, stewards, mariners, or in any other employment on board said vessels, such free negroes or persons of color shall be liable to be seized and confined in jail, until said vessel shall clear out and depart from this state: and that, when said vessel is ready to sail, the captain of said vessel shall be bound to carry away the said free negro, or person of color, and pay the expenses of his detention; and in case of his neglect or refusal so to do, he shall be liable to be indicted, and, on conviction thereof, shall be fined in a sum not less than one thousand dollars, and imprisoned not less than two months; and such free negroes, or persons of color, shall be deemed and taken as absolute slaves, and sold in conformity to the provisions of the act passed on the twentieth day of December, one thousand eight hundred and twenty, aforesaid.

*And be it further enacted by the authority aforesaid, That the sheriff of Charleston district, and each and every other sheriff of this state, shall be empowered and specially enjoined to carry the provisions of this act into effect, each of which shall be entitled to one moiety of the proceeds of the sale of all the free negroes and persons of color that may happen to be sold under the provisions of the foregoing clause: *Provided*, The prosecution be had at his information.*

And be it further enacted by the authority aforesaid, That it shall be the duty of the harbor master of the port of Charleston district to report to the sheriff of Charleston the arrival of all free negroes, or free persons of color, who may arrive on board any vessel coming into the harbor of Charleston from any other state or foreign port.

And be it further enacted by the authority aforesaid, That, from and after the passing of this act, it shall be altogether unlawful for any person or persons to hire of any male slave or slaves his or their time; and in case any male slave or slaves be so permitted by their owner or owners, to hire out their own time, labor or service, the said slave or slaves shall be liable to seizure and forfeiture, in the same manner as has been heretofore enacted, in the act in the case of slaves coming in this state, contrary to the provisions of the same.

And be it further enacted by the authority aforesaid, That, from and after the first day of June next, every free male negro, mulatto, or mustizo, in this state, above the age of fifteen years, shall be compelled to have a guardian, who shall be a respectable freeholder of the district in which said free negro, mulatto, or mustizo, shall reside, and it shall be the duty of the said guardian to go before the Clerk of the Court of the said district, and before him signify his acceptance of the trust in writing; and at the same time he shall give to the Clerk aforesaid his certificate, that the said negro, mulatto, or mustizo, for whom he is guardian, is of good character and correct habits, which acceptance and certificate shall be recorded in the said office by the Clerk, who shall receive for the same fifty cents; and if any free male negro, mulatto, or mustizo, shall be unable to conform to the requisition of this act, then, and in that case, such person or persons shall be dealt with as this act directs for persons of color coming into this state contrary to law; and the amount of sales shall be divided—one half to the informer, and the other half for the use of the state.

And be it further enacted by the authority aforesaid, That, if any person or persons shall counsel, aid, or hire, any slave or slaves, free negroes, or persons of color, to raise a rebellion or insurrection within this state, whether any rebellion or insurrection do actually take place or not, every such person or persons, on conviction thereof, shall be adjudged felons, and suffer death without the benefit of clergy.

And be it further enacted by the authority aforesaid, That the Commissioners of the Cross Roads for Charleston Neck be, and they are hereby declared to be, Justices of the Peace, ex-officio, in that part of the parish of St. Philip's without the corporate limits of Charleston, for all purposes, except for the trial of causes, small and mean.

In the Senate House, on the twenty-first day of December, in the year of our Lord one thousand eight hundred and twenty-two, and in the forty-seventh year of the Independence of the United States of America.

JACOB B. P'ON,

President of the Senate.

PATRICK NOBLE,

Speaker of the House of Representatives.

AN ACT to establish a Competent Force to act as a Municipal Guard, for the protection of Charleston and its vicinity.

Be it enacted by the Honorable the Senate and House of Representatives now met and sitting in General Assembly, and by the authority of the same, That it shall and may be lawful for the Board hereinafter named to engage a number, not exceeding one hundred and fifty men, to be embodied as a Municipal Guard, whose duty it shall be to guard and protect the district between the lines, and to the Cross Roads, when necessary, on Charleston Neck and the southern extremity of the city, between Ashley and Cooper Rivers, by patrols and sentinels, at all times, by day and night, as necessity may require, and shall furnish any number of men which the police of Charleston, or the Magistrates on Charleston Neck, may require, for the preservation of peace and the public security, in the same manner as the City-guard of Charleston are used to do; and shall carry into effect the laws of the state and the city ordinances for the government of negroes and free persons of color; but the members of said corps shall have no military power over the white inhabitants of the state.

And be it further enacted by the authority aforesaid, That the land and buildings now used as the tobacco inspection, be, and the same are hereby, invested in the Board hereinafter constituted, and their successors for ever, for the purpose of being fortified as an arsenal and guard house, for the use of the Municipal Guard herein constituted: *Provided,* That the same shall revert to the state, if used for any other purposes.

And be it further enacted by the authority aforesaid, That the land on which the lines on Charleston Neck are located, shall be, and the same is hereby, invested in the Board herein constituted, and their successors in office, who shall sell the same in the most advantageous manner, and apply the proceeds to the erection of the suitable buildings, on the site of the tobacco inspection, for an arsenal, for the deposit of the arms of the state, and a guard house, and for the use of the said Municipal Guard.

And be it further enacted by the authority aforesaid, That the Municipal Guard aforesaid, may be enlisted for any term not exceeding five years, and shall be governed by the rules and articles of the United States' army, except that no punishment shall extend to life or limb; and if, in the opinion of the Attorney General, it shall be necessary, the consent of Congress shall be requested to the provisions of this act.

And be it further enacted by the authority aforesaid, That, for the purpose of defraying the expenses of said guard, a tax of ten dollars shall be, and the same is hereby, imposed, on all houses within the limits so guarded, inhabited by negroes or persons of color, as tenants; also, a tax of ten dollars upon all free male negroes, or persons of color, who exercise any mechanical trade within the above limits; who shall receive a licence, which shall endure until the first day of January next succeeding its date, from the tax collector of Philip's and St. Michael's, and shall then pay said tax. And

any such person, who shall exercise his trade without complying with this law, shall forfeit one hundred dollars—half to the informer, and the rest to the support of said guard; to be recovered in any Court of competent jurisdiction, by action of debt; also, a tax, not exceeding twenty-five per cent. upon the general tax, upon all property within the limits aforesaid, to be assessed by the Board herein constituted: all which taxes shall be collected by the tax collector of St. Philip's and St. Michael's, in the same manner as other taxes, and shall be paid to the Board herein constituted, for the purpose of defraying the expenses of said guard. And all persons liable to any of the above taxes, shall, when he makes his return, swear that the same contains a full and true account of all property held in his own right, or otherwise subject to the above taxes; and the Assessor shall make diligent inquiry of all houses liable to said tax.

And be it further enacted by the authority aforesaid, That the Brigadier General of the 4th brigade, and the officers thereof, the Intendant and Wardens of the city of Charleston, and the Commissioners of Cross Roads on Charleston Neck, shall constitute a Board, for the purpose of carrying this act into full effect; appointing and displacing the officers of the guard, and, generally, performing all acts necessary and proper to effectuate the intention of this act; and make and establish all rules and orders relative to said guard, not inconsistent with the laws of the land.

And be it further enacted by the authority aforesaid, That when, in the opinion of the said Board, the said guard is sufficiently organized to secure Charleston and the Neck, the present City guard shall be abolished; and the inhabitants within said district shall not be liable to patrol duty: but any military force necessary shall be ordered on duty by the proper officers of the militia.

And be it further enacted by the authority aforesaid, That all enlistments shall be conditioned; that no enlisted man shall vote at any city or state election; and any offender shall be liable to dismissal and forfeiture of all pay and clothing.

In the Senate House, on the twenty-first day of December, the year of our Lord one thousand eight hundred and twenty-two, and in the forty-seventh year of the Independence of the United States of America.

JACOB B. FORT, *President of the Senate.*

PATRICK NOBLE, *Speaker of the House of Representatives.*

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