

AN ACT for fixing the mode of trying Questions relative to the Freedom of Negroes, and other Persons of Colour, and for suspending certain Acts therein mentioned. [14 January 1805.]

WHEREAS many inconveniences have arisen from the mode of trying questions relative to the freedom of negroes and other persons of colour, as established in and by an Act passed in the twenty-eighth year of His Majesty's reign, intituled, " An Act for explaining and amending an Act passed in the twenty-fourth year of His Majesty's reign, intituled, ' An Act for governing negroes, mulattoes, mustees and Indians, and for suspending several Acts therein-mentioned ;" May it therefore please your Majesty, that it may be enacted, and be it enacted by his excellency Charles Cameron, esquire, your Majesty's captain general and governor in chief, the council and the assembly of your Majesty's said Islands, and it is hereby enacted and ordained by the authority of the same, That the aforesaid first-mentioned Act, and all and every other Act and Acts, or clauses of Acts of the general assembly, so far forth as the same do relate to the trial of questions concerning the freedom of negroes or other persons of colour, be suspended; and the same are hereby accordingly suspended, during the continuance of this Act.

Preamble.

Certain Acts suspended.

2d. And be it enacted, That from and after the passing of this Act, all questions relating to the freedom or slavery of negroes or other persons of colour, shall be tried and determined in His Majesty's general court of these Islands, and not elsewhere, any law usage or custom to the contrary notwithstanding.

Claims to freedom to be tried only in the general courts

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3d. And

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Regulations for  
such trial.

3d. And be it enacted, That in all cases in which application shall be made to the general court, or in time of vacation to any of the judges of the general court, or on any out Island, to any two magistrates of the same, where there are four, and if less than four to any one magistrate, with the assistance and concurrence of any three or more freeholders, for and in behalf of any negro or other person of colour, pretending to or claiming freedom, and praying that his or her claim may be inquired into, it shall and may be lawful for the court or judge, magistrates or magistrate, and freeholders aforesaid, as the case may be, to direct the person so claiming his her or their freedom, to state the grounds upon which he she or they so claim; and if sufficient grounds shall appear in support of the claim or claims to freedom, then and in such case to appoint some fit person to be guardian of such negro or other person of colour, for the purpose of prosecuting a suit, in the nature of an action of ravishment of ward, homine replegiando, or other fit action, to try his or her claim to freedom; in which suit the plaintiff shall be admitted to sue in forma pauperis; and the judgment therein given shall be binding against all and every person and persons who shall be a party or parties to the same.

How if claimant be  
on any out Island.

4th. And be it further enacted, That in case any claim to freedom shall arise on an out Island, and be supported on sufficient grounds as aforesaid, it shall and may be lawful for the said magistrates or magistrate, with the assistance and concurrence of three or more freeholders, to oblige the owner or person so holding the said negro or other person of colour in bondage, either to resign all right to the person so claiming his her or their freedom, or to enter into sufficient security for the sending such person or persons to the general court at Nassau for trial, within six weeks after such examination, a copy of the proceedings of which either the plaintiff or defendant may demand, upon payment of a reasonable charge for the same; and in case of any neglect on the part of the judge, magistrates or magistrate and freeholders, by refusing to examine and take cognizance of any such claim to freedom, he or they, as the case may be, shall for every such neglect be liable to a penalty of one hundred pounds; one moiety of which shall go to his Majesty, his heirs and successors, in aid of the support of this government, and the other moiety to the person suing for the same.

How claimant to  
be disposed of, pre-  
vious to the trial.

5th. And be it further enacted, That any negro or other person of colour claiming his or her freedom as aforesaid, shall forthwith be committed to the common gaol, workhouse, or other place of safe custody, at the discretion of the court or judge, magistrates or magistrate, and freeholders, as the case may be, there to remain so long as the suit shall be pending: Provided always, that it shall and may be lawful for the court, or for any of the judges thereof in time of vacation, or for the magistrates or magistrate, and freeholders, to make an order for delivering such negro or other person of colour to the custody of his or her guardian, or of any other indifferent person, taking security in a sufficient recognizance for the appearance of such negro or other person of colour, and for the payment of such reasonable wages as the court may award in case judgment shall be given for the defendant, and that the court or judge, magistrates or magistrate, and freeholders, may from time to time make such further order or orders respecting the safe custody of any such negro or other person of colour, claiming his or her freedom as aforesaid, or respecting his or her labour, wages, support or maintenance, as may be for the benefit of the party in whose favour judgment may eventually be given; and that any person or persons disobeying any such order, shall and may be proceeded against and punished as for a contempt.

Question of free-  
dom only to be  
tried.

Proviso; but  
another action  
may afterwards be  
maintained for  
wages.

6th. And be it further enacted, That in any such action as aforesaid, the plaintiff's title of freedom only shall be insisted on, and nominal damages only shall be awarded: Provided always, that it shall and may be lawful for any negro or other person of colour, in whose favour judgment shall have been given in any such action, forthwith to have and maintain another suit, and recover reasonable wages or damages, upon a quantum meruit for work, labour and service by him or her done and performed for the defendant or defendants, for such time only as it shall appear that the said negro or other person of colour had made known his her or their claim or title to freedom, to such defendant or defendants so holding them in bondage.

Former decisions  
not to be over-  
hauled.

7th. And be it further enacted, That this Act shall not extend or be construed to extend to enable the said court to take cognizance of the claim or claims of any negro or other persons of colour, who shall at any time heretofore have been declared

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declared and adjudged a slave by any other court, lawfully constituted, and having competent jurisdiction on the subject matter.

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8th. And be it enacted, That this Act shall continue and be in force for and during the term of three years from and after the passing thereof, and from thence to the end of the then next session of the general assembly.

Continuance of this Act.