

BAHAMA ISLANDS :—An Act for fixing the mode of trying Questions relative to the Freedom of Negroes, and for suspending certain Acts therein mentioned.

Preamble.

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 the reign of his late Majesty King George the Third, intituled, “ An Act for explaining and amending an Act passed in the twenty-fourth year of the reign of his late Majesty King George the Third, 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 declared, and be it therefore enacted and declared by his Honour Wm. Vesey Munnings, Esquire, President and Commander-in-Chief, the Council and Assembly of Your Majesty’s said Bahama Islands, and it is hereby enacted and declared by the authority of the same, that the aforesaid first-mentioned Act, and all and every 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.

Act 28 Geo. 3,  
suspended.

2. And

2. 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. Questions relating to freedom of slaves to be tried in General Court.

3. 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, when they are four, and if less than four to any one magistrate, with the assistance and concurrence of any three or more freeholders, for and on 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, magistrate or magistrates 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, *homini replegiando*, or other fit action, to try his or her claim to freedom; in which suit the plaintiff shall be admitted to sue in *formâ 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. Mode of trying questions of freedom.

4. And be it further enacted, that in case any claim to freedom shall arise in any 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 of lawful money of the said islands, 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. Mode of proceeding in out-islands where a claim of freedom may arise.

5. 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, 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 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. Persons claiming freedom how to be dealt with while suit is pending.

6. And be it further enacted, that on any such action as aforesaid, the plaintiff's title to 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* from the defendant or defendant., 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. Nominal damages to be awarded in actions for freedom.

333.

B 4

7. And Not to prejudice a suit for damages.

Person adjudged a slave not precluded from a new trial on new grounds.

7. And be it further enacted, that any one declared and adjudged a slave by the same or any other court as aforesaid, shall not therefore be precluded from another suit for freedom in the general court of these islands : provided such new suit shall be brought on grounds different from those on which the previous suit had been tried, and arising out of facts either occurring subsequent to the previous judgment, or not within the knowledge of the party applicant at the time of the previous trial.

Duration.

8. And be it further enacted, that this Act shall continue and be in force for and during the term of ten years from and after the passing thereof, and from thence to the end of the then next session of the General Assembly.

Passed the House of Assembly, 18th October 1826.

(signed) *L. Kerr*, Speaker.

Passed the Legislative Council, 25th October 1826.

(signed) *P. Brown*, President.

Assented to, the 22d day of December 1826.

(signed) *Wm. Vesey Munnings*.