

Hillsborough Recorder

THE CONSTITUTION AND THE LAWS—THE GUARDIANS OF OUR LIBERTY

Vol. XLVI.

HILLSBOROUGH, N. C., APRIL 18, 1866

No. 2333.

AN ACT

Concerning Negroes and Persons of Color or of Mixed Blood.

Be it enacted, &c., That negroes and their issue, even where one ancestor in each succeeding generation to the fourth inclusive, is white, shall be deemed persons of color.

2. Be it further enacted, That all persons of color who are now inhabitants of this State shall be entitled to the same privileges, and subject to the same burdens and disabilities as by the laws of the State were conferred on, or were attached to, free persons of color prior to the ordinance of emancipation, except as the same may be changed by law.

3. Be it further enacted, That persons of color shall be entitled to all the privileges of white persons in the mode of prosecuting, defending, continuing, removing and transferring their suits at law and in equity; and likewise to the same mode of trial by jury, and all privileges appertaining thereto. And in all proceedings in equity, by or against them, their answer shall have the same force and effect in all respects as the answer of white persons.

4. Be it further enacted, That in all cases of apprenticeship of persons of color under chapter five of the Revised Code, the master shall be bound to discharge the same duties to them as to white apprentices, and the words "as are white" in section three, line three, are hereby repealed, and the word "apprentice" shall be read after the word "such," in said line, and the words "if a white person," in the second line of section six are hereby repealed: Provided always, That in the binding out of apprentices of color, the former masters of such apprentices, when they shall be regarded as suitable persons by the courts, shall be entitled to have such apprentices bound to them in preference to other persons.

5. Be it further enacted, That in all cases where men and women, both or one of whom were lately slaves and are now emancipated, now cohabit together in the relation of husband and wife, the parties shall be deemed to have been lawfully married as man and wife at the time of the commencement of such cohabitation, although they may not have been married in due form of law. And all persons whose cohabitations hereby ratified into a state of marriage, shall go before the Clerk of the Court

of Pleas and Quarter Sessions of the county in which they reside, at his office, or before some Justice of the Peace, and acknowledge the fact of such cohabitation, and the time of its commencement; and the clerk shall enter the same in a book kept for that purpose; and if the acknowledgment be made before a Justice of the Peace, such Justice shall report the same in writing to the Clerk of the Court of Pleas and Quarter Sessions, and the Clerk shall enter the same as though the acknowledgment had been made before him; and such entry shall be deemed *prima facie* evidence of the allegations therein contained. For making such entry and giving a certificate of the same, the clerk shall be entitled to a fee of twenty-five cents, to be paid by the party for whom the services are rendered.

6. Be it further enacted, That if any of such persons shall fail to go before the clerk of the County Court or some Justice of the Peace of the county in which they reside, and have their marriage recorded before the first of September 1866, they shall be deemed guilty of a misdemeanor, and punished at the discretion of the Court, and their failure for each month thereafter, shall constitute a separate and distinct offence.

7. Be it further enacted, That all contracts between any persons whatever, whereof one or more of them shall be a person of color, for the sale or purchase of any horse, mule, ass, jennet, neat-cattle, hog, sheep or goat, whatever may be the value of such articles, and all contracts between such persons for any other articles of property whatever of the value of ten dollars or more; and all contracts, executed or executory, between such persons for the payment of

money of the value of ten dollars or more, shall be void as to all persons whatever, unless the same be put in writing and signed by the vendors or debtors, and witnessed by a white person who can read and write.

8. Be it further enacted, That marriages between white persons and persons of color shall be void; and every person authorized to solemnize the rights of matrimony, who shall knowingly solemnize the same between such persons; and every clerk of a Court who shall knowingly issue license for their marriage, shall be deemed guilty of a misdemeanor, and moreover, shall pay a penalty of five hundred dollars to any person suing for the same.

9. Be it further enacted, That persons of color, not otherwise incompetent, shall be capable of bearing evidence in all controversies at law and in equity, where the rights of persons or property, of persons of color, shall be put to issue, and would be concluded by the judgment or decree of Court; and also in pleas of the State, where the violence, fraud or injury alleged shall be charged to have been done by or to persons of color. In all other civil and criminal cases such evidence shall be deemed inadmissible, unless by consent of the parties of record: Provided, That this section shall not go into effect until jurisdiction in matters relating to freedmen shall be fully committed to the Courts of this State; Provided, further, That no person shall be deemed incompetent to bear testimony in such cases, because of being a party to the record or in interest.

10. Be it further enacted, That whenever a person of color shall be examined as a witness, the Court shall warn the witness to declare the truth.

11. Be it further enacted, That any person of color, convicted by due course of law, of an assault with an intent to commit a rape upon the body of a white female, shall suffer death.

12. Be it further enacted, That the criminal laws of the State, embracing and affecting a white person, are hereby extended to persons of color, except where it is otherwise provided in this act, and whenever they shall be convicted of any act made criminal, if committed by a white person, they shall be punished in like manner, except in such cases when other and different punishment may be prescribed or allowed by this act.

13. Be it further enacted, That at the time now provided for the election of wardens of the poor, the Justices of the Court of Pleas and Quarter Sessions of each county, under the rules and regulations now prescribed, may, in their discretion, elect two distinct and independent courts of wardens; one of whom shall act as the wardens of the white poor, and the other as the wardens of the colored poor.

14. Be it further enacted, That the persons constituting each Court shall be qualified as now provided; and the wardens severally, and each Court shall have all the powers and authorities now conferred on them, and they and the officers of each Court, and all other persons whatever, shall be subject to all the duties, liabilities and penalties imposed on them by chapter 35 of the Revised Code.

15. Be it further enacted, That the following law and parts of laws are hereby repealed: First, Certain laws contained in the Revised Code, namely: The entire chapter one hundred and seven, entitled "slaves and free negroes," except sections fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight and sixty-six, and these sections shall be so amended as to read, "persons of color" instead of free negroes in all cases where the latter words occur. Section two of chapter fourteen, entitled "boats and canoes." Sections ten, eleven, twelve, thirteen, eighty-one, eighty-two, eighty-three, eighty-four, eighty-five, eighty-six, eighty-seven, eighty-nine, ninety, ninety-one, ninety-two, ninety-three of chapter thirty-four, entitled, "crimes and punishments." Sections seventeen, nineteen and twenty-one of chapter thirty-seven, entitled, "deeds and conveyances." Section four of chapter forty-eight, entitled

"fences." Section twenty-eight, chapter fifty-nine, entitled "insolvent debtors." Section thirty-nine of chapter eighty-four, entitled "pilots." Sections fifteen, sixteen, seventeen, eighteen, nineteen and twenty of chapter eighty-six. Secondly: Certain acts passed since the enactment of the Revised Code, to-wit: an act ratified on the sixteenth day of February eighteen hundred and fifty-nine, chapter thirty, entitled "an act for the hiring out of free negroes in certain cases;" an act ratified on the same day, chapter thirty-one, entitled "an act to prevent the sale of spirituous liquors to free persons of color;" an act ratified on the thirty-first day of January eighteen hundred and sixty-one, chapter thirty-seven, entitled "an act to prohibit emancipation of slaves by will;" an act ratified on the twenty-third day of February eighteen hundred and sixty-one, chapter twenty-three, entitled "an act to amend the sixteenth and seventeenth sections of chapter thirty-four, Revised Code;" an act ratified on the same day, chapter thirty-four, entitled "an act to amend chapter one hundred and seven, section sixty-six, of the Revised Code, relating to free negroes having arms;" an act ratified on the same day, chapter thirty-five, entitled "an act to change the rule of evidence in indictments for trading with slaves;" an act ratified on the same day, chapter thirty-six, entitled "an act to prevent free negroes from hiring or having the control of slaves;" an act ratified on the twenty-first day of September eighteen hundred and sixty-one, chapter twenty-six, entitled "an act to amend section fifteen, of the one hundred and seventh chapter, of the Revised Code;" an act ratified on the twentieth day of December, eighteen hundred and sixty-two, chapter sixteen, entitled "an act to authorize the Governor to employ slave labor in erecting fortifications and other works."

16. Be it further enacted, That all other acts and parts of acts passed before the present session of the General Assembly, besides those enumerated in the foregoing section, the subjects whereof are revised and re-enacted in this act, or which are repugnant to the provisions herein contained, are hereby declared to be repealed, and of no force and effect from and after the ratification of this act, with the exceptions and limitations hereinafter mentioned.

17. Be it further enacted, That the repeal of the acts mentioned in the preceding sections shall not affect any act done, or any suit or proceeding had or commenced in any case before the ratification of this act.

18. Be it further enacted, That no offence committed under any of the acts hereby repealed, and before the time when they ceased to be laws of the State, shall be affected by such repeal, except that when any punishment shall have been mitigated by the provisions of this act, such provisions shall be extended and applied to any judgments to be pronounced after the repeal, or cessation to have effect: Provided, however, That in case of the conviction of any person of color for any such offence, he shall be punished therefor in like manner only as if he were a white man.

19. Be it further enacted, That no suit or prosecution, pending at the time of the repeal, for any offence committed, or for the recovery of any penalty or forfeiture incurred under any of the acts repealed, shall be affected by such repeal.

In General Assembly read three times, and ratified this 10th day of March, A. D. 1865.

S. F. PHILLIPS,
Speaker House of Commons.
C. S. WINSTEAD,
Speaker of Senate.

I certify that the foregoing is a true copy of the original on file in this Office.

R. W. BEST, Sec'y of State.

From the National Intelligencer.

That all men within the jurisdiction of the United States are free is an established principle, to which all classes of the American people are pledged by every doctrine

or line of policy with which any party, sect, or school proposes to advance the public good. This is an important fact. We suppose it will be acknowledged to be a fact. Radicals would not thank us for offering to prove that they are so pledged; but conservatives too are equally so pledged. The favorite argument of every hue of conservatives is the Constitution. But the freedom of all men under it is as much a part of the Constitution as any other thing whatever. Even that school of Democrats, who are so liberal as to refuse to see good in anybody but themselves, or any movement but their own—whose very religion is bound up in a platform, and whose god is a prisoner in the temples of their faith—are pledged by every word they consistently utter to stand by the freeman, whatever his color, should the strong attempt to reduce him to involuntary servitude, contrary to the Constitution of the United States. The whole South is so pledged. There is not a purpose which has been imputed to or charged upon them, or any of them, by friends, opponents, or enemies, which they do not hope, or which they must not be supposed to hope, to effect under color and by the aid of the Constitution of the United States. Even the attempt to re-establish slavery or revive the rebellion is inconceivable but upon some principle of misconstruction of the Constitution, and, consequently, upon the concession that the Constitution must be obeyed.

Now, if there is no difference of opinion as to the constitutional freedom of all the inhabitants of the country, and there is yet the widest and most unfortunate antagonism of parties on the subject, it must follow that the true cause of the difficulty is mere distrust—the distrust of each other's fidelity to the acknowledged constitutional obligation, or, to come to the practical point, a suspicion on the part of the Northern people that the Southern people will not live up to the constitutional law, that there shall be no slavery or involuntary servitude in the United States. Is this all? We humbly submit that it is all. The people in the North do not suspect themselves of the possibility of violating the ordinance of freedom; but they suspect those of the South. Hereupon we beg to offer a few suggestions.

In the first place, is it usual to make laws for a hypothetical subject?—especially where circumstances have occasioned a morbid public sensibility, rendering statutory regulation a matter of more than common hazard. It will not be pretended that there is now any general violation of the ordinance of freedom in the South. The civil rights bill is professedly preventive. If anything in the world could tend to establish polygamy in New England, a law to prevent it would have such a tendency. Wait for the mischief—then provide the remedy, and adapt it exactly to its end.

2. Is it just to declare one's self above suspicion, but to claim a right to act on suspicion against a neighbor? If the whole South profess to accept the freedom of their late slaves, and to be willing to conserve it, and ask for a trial of their good faith, is it just to refuse the trial? The Southern people might be just to the negroes. They might make fair, liberal laws for their protection, and might execute them in good faith. There may really be a growing public sentiment in favor of that unhappy race. With what great regret—we may say remorse—we should find that we had refused to trust such a sentiment, and had thus discouraged and finally perverted it! They all, with one voice, assure us they have such a feeling—such a purpose. Must we proclaim the extraordinary belief that an entire people of our blood and brotherhood are less truthful than ourselves? Have we any warrant in our knowledge of each other for such a charge? If we have any doubt about this, shall we not give the South the benefit of it? What if we are mistaken about it?

3. Is it reasonable for us to distrust the Southern people in this matter? We claim that slavery was an evil in the white people, as a question of interest. They were