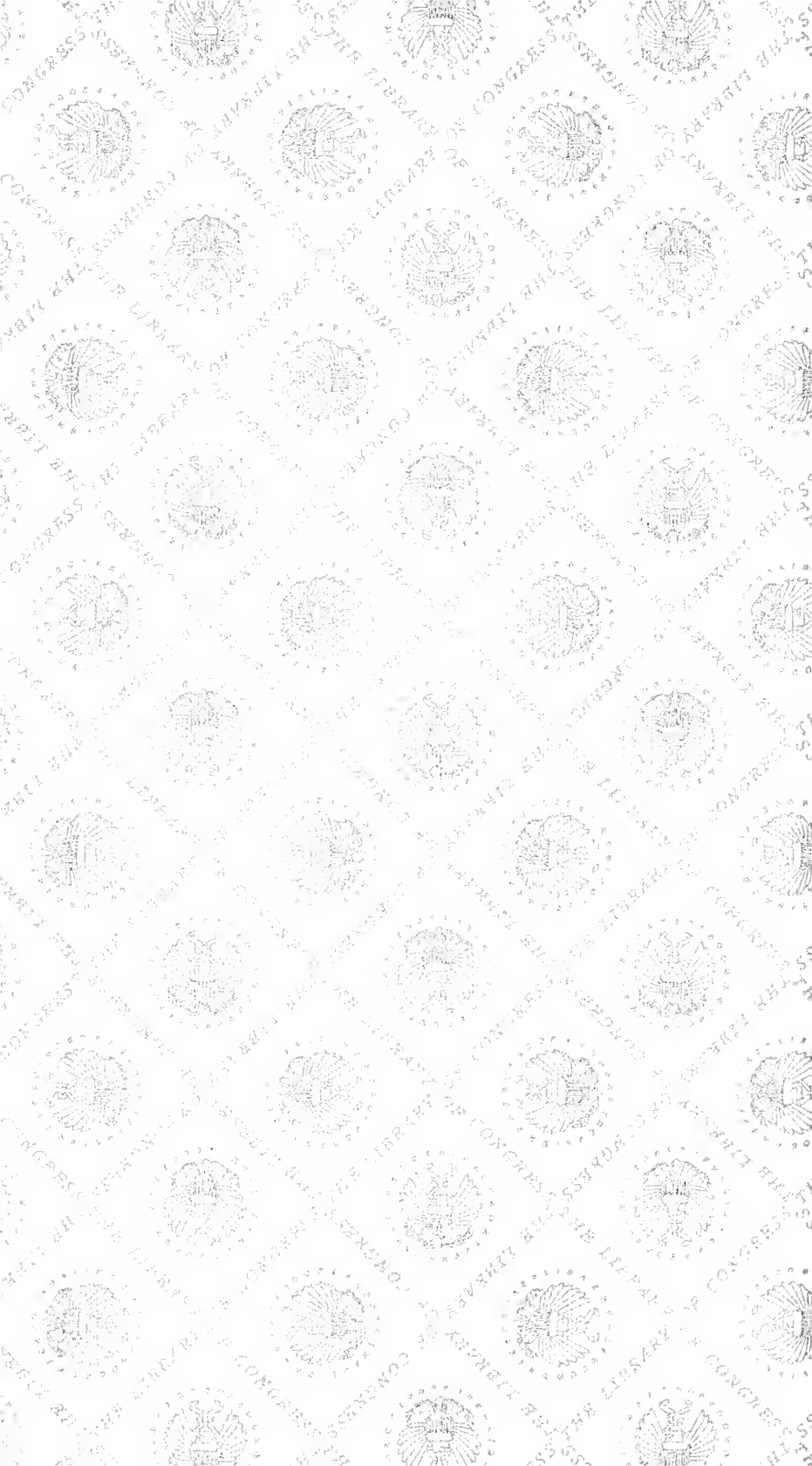


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HOUSE.....

.....No. 38.

R E P O R T

ON THE

DELIVERANCE OF CITIZENS,

LIABLE TO BE SOLD AS SLAVES.

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.1. 423

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES, March 6, 1839.

The Special Joint Committee appointed by an order of the twenty-second of January last, “to inquire into the expediency of providing for the deliverance of citizens of this Commonwealth, who may be imprisoned and liable to be sold as slaves,”

R E P O R T :

That it is inexpedient to legislate thereon, and ask to be discharged from the further consideration of the subject.

By order of the Committee,

THOMAS KINNICUTT, *Chairman.*

Commonwealth of Massachusetts.

HOUSE OF REPRESENTATIVES.

The undersigned, a minority of the Joint Special Committee, appointed under an order of the House, to inquire into the expediency of providing for the deliverance of citizens of this Commonwealth, who may be imprisoned and liable to be sold as slaves, asks permission to submit the following

R E P O R T .

The fourth article of the Constitution of the United States contains this provision: "The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states."

"This provision in the Constitution," says Judge Story, in his Comm. vol. 3, p. 647, "is plain and simple in its language, and its object is not easily to be misunderstood. Connected with the exclusive power of naturalization in the general government, it puts at rest many of the difficulties which affected the construction of the articles of confederation. It is obvious, if the citizens of each state

were to be aliens to each other, they could not take or hold real estate, or other privileges, except as other aliens. The intention of this clause was, to confer on them, if one may so say, a general citizenship; and to communicate all the privileges and immunities which the citizens of the same state would be entitled to under the like circumstances."

And upon this clause of the Constitution, we have, in the 4 *Wash. Ci. Ct. R.* 380, *Canfield v. Cargell*, the following remarks of the court, delivered by Washington, the presiding judge: "The inquiry is, what are the privileges and immunities of citizens in the several states? We feel no hesitation in confining these expressions to those privileges and immunities which are in their nature fundamental, which belong of right to the citizens of all free governments; and which have, at all times, been enjoyed by the citizens of the several states which compose this Union, from the time of their becoming free, independent, and sovereign. What these fundamental principles are, it would, perhaps, be more tedious than difficult to enumerate. The right of a citizen of one state to pass through or reside in any other state, for the purposes of trade, agriculture, professional pursuits, or otherwise, are among the rights secured. These, and many others which might be mentioned, are, strictly speaking, privileges and immunities; and the enjoyment of them by the citizens of each state, was manifestly calculated (to use the expressions of the preamble of the corresponding provision in the articles of confederation,) "the better to secure and perpetuate mutual friendship and intercourse among the people of the different states of the Union."

The several laws, now in force in different slave-hold-

ing states of this Union, which were presented to the consideration of your Committee, are deemed by the undersigned to be in flagrant violation of this article of the Constitution of these United States. He also deems them an outrage upon the rights of the citizens of Massachusetts, and utterly subversive of that great principle of the common law, which regards as sacred the person of every citizen, who stands unaccused of crime. And he cannot entertain a doubt, that they will be so deemed by this Legislature, and by the people of this Commonwealth. For, under the operation of those laws, free-born citizens of this State, and consequently of the United States also, against whom no crime has been proved, or even charged, may be arrested, imprisoned, and sold into servitude. This not only *may* be done, but it *has* been done. And it has been done often; in cases almost innumerable. A large number of these cases were laid before your Committee. They were presented as specimens of the oppression and cruelty which are daily inflicted, as well upon citizens of this, as upon those of other free states, under the operation of the laws in question.

The undersigned begs leave to introduce, as a part of this report, some of the laws which were laid before your Committee, together with a few of the numerous instances of oppression and cruelty that are known to have occurred under them, and which were also adverted to before your Committee. He adopts this mode as the readiest way of bringing this subject fairly before the Legislature; believing, that its members need but a simple statement of the facts in the case, to induce them to bestow on the subject that degree of consideration which its deep importance demands, and to take such measures in rela-

tion to it, as shall evince a just regard for the rights of our citizens, and for the dignity and honor of this ancient Commonwealth.

For convenience of reference, the laws in question will be divided into two classes, and arranged under the names of the several states, from whose respective statute-books they have been transcribed. Examples of the oppressions known to have occurred under these laws, will be given under each class respectively. The first of these classes affect our citizens of color only ; the other affect also the masters of our vessels, visiting the ports of slave-holding states.

But, previous to beginning this citation, it will not, perhaps, be inappropriate to mention, that in the slave-holding states, a dark skin affords a legal presumption that its possessor is a slave. Thus, an act of South Carolina says : “ And it shall be always presumed, that every negro, mulatto, or mestizo, is a slave, unless the contrary be made to appear, (the Indians in comity with this government excepted.)” [2 *Brevard's Digest*, pp. 229–30, quoted by *Judge Stroud*, p. 77.] The act of Georgia touching this subject is almost literally a copy of this of South Carolina. And it is believed that this doctrine of presumption obtains in all the slave-holding states, with the exception of some one or two, where it is confined to negroes of the whole blood. But even where this limitation is recognised, it is little regarded in practice, as will presently appear. It should be added, that no suit can be brought for the recovery of the liberty of a citizen claimed as a slave, on the ground of his complexion, except by a white person ; and that, should judgment go against the plaintiff, this same act of S. C. empowers the court “ to inflict such corporal punishment, not extending to life or limb,

on the ward of the plaintiff, as they in their discretion shall see fit." [See *Stroud*, p. 77.] Of the whole design of this act, the undersigned does not feel called on to express an opinion. But its inevitable tendency is obvious. It must necessarily prevent many a freeman, who has been robbed of his liberty, from availing himself of the legal provisions for regaining that liberty. He would fear to permit a friend to sue for his restoration to freedom, lest, by the failure of such suit, he should be visited with evils almost as terrible to him, as the loss of his liberty.

It may also be well enough to remark here, that the subject of the present report has no connexion whatever, with the "existing topic," so called, of abolition. The subject is one which seriously concerns all—whether abolitionists or anti-abolitionists—who have the slightest regard, either for the personal safety of our seven thousand colored citizens, or for the interests and undoubted rights of our merchants and masters of vessels.

In making the proposed citation of laws, the undersigned will begin with the state of

NORTH CAROLINA.—"It shall not be lawful hereafter, for any free negro or mulatto to migrate into this state: and if he or she shall do so, contrary to the provisions of this act, and being thereof informed, shall not, within twenty days thereafter remove out of the state, he or she being thereof convicted in manner hereinafter directed, shall be liable to a penalty of five hundred dollars: and upon failure to pay the same, within the time prescribed in the judgment awarded against such person or persons, he or she shall be liable to be held in servitude and at labor, for a term of time not exceeding ten years, in such manner and upon such terms as may be prescribed by the court awarding such sentence; and the proceeds arising therefrom shall be paid over to the county trustee for county purposes," &c. &c.—*Laws of North Carolina*, 1826, Chap. 21.

Again :

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“Whenever any negro slave shall be taken up in this state as a runaway, and confined in any jail for the space of twelve months, and the apprehension and confinement of said slave have been advertised in the State Gazette at least six months, and the owner does not apply to prove property in said time, then it shall be lawful for the court of pleas and quarter sessions of the county in which said runaway is confined, to command their sheriff to expose said negro slave to sale for ready money, giving three months’ notice in some public newspaper in this state, at the court-house door, and at two other public places in the said county, of the time and place of sale, and of the circumstances under which the said slave is to be sold.”—*Revised Statutes of North Carolina, Chap. CXI, Sec. 16, Vol. 1.*

VIRGINIA.—“All free negroes and mulattoes, who shall be convicted of remaining in this Commonwealth contrary to law, and who shall become liable to be sold, according to the provisions of former laws and of this act, shall be publicly sold by the sheriff or sergeant, at the front door of the court-house of the county or corporation, on a court day, in pursuance of notice of such sale posted at such court-house door at the court held in the preceding month.”—*Laws of Virginia, 1830 Chap. 39.*

SOUTH CAROLINA.—“From and after the first day of March next, it shall not be lawful for any free negro or mulatto to migrate into this state; and every free negro or mulatto who shall migrate into this state, contrary to this act, shall and may be apprehended and carried by any white person before some Justice of the Peace of the district or parish, where he or she shall be taken; which justice is hereby authorized and required to examine such free negro or mulatto, and to order him or her to leave the state. And every free negro or mulatto so ordered to leave the state, and thereafter remaining longer than fifteen days within the same, or having left the state, and thereafter returning to the state, (unless it be in consequence of shipwreck, or some unavoidable accident, or as a seaman on board or belonging to a vessel, with which he shall depart, or as a servant to any white person travelling into this state,) upon proof thereof made before any magistrate and three freeholders, and on conviction thereof, shall be subjected to a fine of twenty dollars; and in default of the payment thereof, shall be publicly sold, after ten days’ notice, for a term not exceeding five years; and if such free negro, mulatto, or mustizo, shall be found in this state after

the lapse of ten days, after paying such fine, or after such servitude under such sale, he, she, or they, shall be liable to be proceeded against in like manner, and shall be sold for the like sum, and for a term not exceeding five years, until such slave or slaves shall depart the state.”—*Laws of South Carolina, 1826, p. 22.*

TENNESSEE.—“In all cases where any slave shall have been committed to any of the jails of this state as a runaway, and shall have been duly advertised by said jailer as required by the laws of this state, and shall not be claimed or proved away by the owner of such slave or runaway, and shall have been imprisoned for the term of twelve months, it may and shall be lawful for the sheriff of any county in this state, and he is hereby empowered, having previously advertised the same thirty days, to expose such negro slave to public sale to the highest bidder, at the court-house door of the county of which he is sheriff, and the proceeds of said sale shall first be applied to pay all costs and jailer’s fees, and the surplus, if any, paid over to the county trustee of the county, to be used for county purposes; and said sheriff, upon making such sale, shall, and is hereby directed and empowered to make a bill of sale of any slave to the purchaser, so sold, which shall vest a good title to said slave.”—*Laws of Tennessee, Vol 1, pp. 323-24.*

GEORGIA.—“From and after the first day of June next, it shall not be lawful for any person of color, other than a slave, or a free person of color duly registered in manner aforesaid, to remain in this state; and if any free person of color, other than as aforesaid, shall be found in this state after the said first day of June next, he or she shall be arrested and tried, and if convicted of a violation of this law, he or she shall pay a fine of \$100, and in default of such payment, it shall be lawful for the court to bind them out as laborers until the fine is paid by the hire of such labor; and, moreover, shall be liable and subject to a repetition of such conviction, fine, and imprisonment, at the end of thirty days after any such conviction and payment of such fine, until he or she shall actually depart this state, and that it shall be the duty of such [each] and every civil officer of this state to carry into effect this law.”—*Prince’s Digest of the Laws of Georgia, p. 810.*

In an act of this state, “respecting runaway slaves,” we have a section to this effect: “If no person appears to claim and prove property in said slave [that is, *any* colored person, any *free* colored person,

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who may have been taken up as a runaway, and is unable to prove his freedom] then it shall be the duty of said sheriff to sell said slave for cash to the highest bidder, and after paying jail fees and all other expenses that may have been incurred on account of said slave, to pay over the balance to the clerk of the inferior court to become and used as county funds.”—*Ib.* p. 806.

LOUISIANA.—“ In case the owner of said slave, [that is, any person of color, arrested as a runaway slave] shall not claim said slave within two years from the date of the first advertisement in the newspapers in compliance with the preceding section, then and in that case, it shall be the duty of the treasurer of the city, for negroes confined in the city of New Orleans, and of the sheriffs, for negroes confined in the counties, to cause the said negro to be sold, by and with the leave of the judge of their respective county first obtained, at public sale to the highest bidder, after three advertisements successively in the newspapers according to practice,” &c.—*Martin's Digest of the Laws of Louisiana*, p. 626.

The laws which have thus been quoted from the statute-books of six different slave-holding states, may be regarded as *specimens* of the laws now in force on this subject throughout the slave-holding states. Of course, it would be easy to extend the list, if it were deemed desirable.

Now, to show that these laws are not inoperative—a dead letter upon the pages of the statute-book—the following facts are submitted. They are a few out of a vast multitude, to which the attention of the undersigned has been directed.

On the 27th February last, the undersigned had an interview with the Rev. Samuel Snowden, a respectable and an intelligent clergyman of the city of Boston. This gentleman stated, and he is now ready to make oath, that, during the last six years, he has himself, by the aid of various benevolent individuals, procured the deliverance from jail of six citizens of Massachusetts, who had been

arrested and imprisoned as runaway slaves, and who, but for his timely interposition, would have been sold into perpetual bondage. The names and the places of imprisonment of those persons, as stated by Mr. S., were as follows :

James Hight, imprisoned at Mobile ; William Adams, at Norfolk ; William Holmes, also at Norfolk ; James Oxford, at Wilmington ; James Smith, at Baton Rouge ; John Tidd, at New Orleans.

It should be mentioned, that with regard to the place of the imprisonment of *one* of these men, James Oxford, Mr. S. was not, at the time of his interview with the undersigned, positively certain. He, however, believed it was Wilmington, as above stated.

In 1836, Mary Smith, a native of this State, returning from New Orleans, whither she had been in the capacity of a servant, was cast upon the shores of North Carolina. She was there seized and sold as a slave. Information of the fact reached her friends at Boston. Those friends made an effort to obtain her liberation. They invoked the assistance of the Governor of this Commonwealth. A correspondence ensued between His Excellency and the Governor of North Carolina ; copies of which were offered for the inspection of your Committee. Soon afterwards, by permission of the authorities of North Carolina, "Mary Smith" returned to Boston. But it turned out, that this was not *the* Mary Smith, whom our worthy Governor, and other excellent individuals of Boston, had taken so unwearied pains to redeem from slavery. It was another woman of the same name, who was also a native of Massachusetts, and had been seized in North Carolina as a runaway slave. *The* Mary Smith has not

yet been heard of. If alive, she is now, in all probability, wearing the chains of slavery.

About a year and a half since, several citizens of different free states were rescued from slavery, at New Orleans, by the direct personal efforts of an acquaintance of the undersigned. The benevolent individual alluded to is Jacob Barker, Esq., a name not unknown to the commercial world. Mr. Barker is a resident of New Orleans. A statement of the cases in reference is contained in a letter addressed by him to the Hon. Samuel H. Jenks, of Nantucket. The following is a copy of that letter, which, though it contains remarks not necessary to the statement itself, is deemed by the undersigned worthy of a place in this report.

“NEW ORLEANS, Aug. 19th, 1837.

“*Dear Sir*: Will you advise blacks visiting this section of the country from your quarter, to provide themselves with a certificate of their freedom from the Governor of the state to which they belong.

“The laws of Louisiana presume all blacks to be slaves, and when found at large are presumed to be runaways, and as such are arrested and placed in the chain-gang, to work on the roads. Custom-house *protections* are not considered as proof of freedom.

“But for the necessity of having such men as sailors, laborers, firemen, cooks, and stewards, on board our ships and steamboats, I would advise them not to come here on any consideration whatever. Their exclusion would be so very detrimental to the commerce of the United States, and particularly of New Orleans, that some other remedy must be provided, if possible. It is strange the authorities are not influenced by the interest of this city, purely commercial, to pursue a more liberal course.

“As far as my observation extends, those of the lower or third Municipality are the most rigid; and if they do not alter their course, all vessels having blacks on board, should avoid landing there, and proceed to the upper part of the city. This can be done without inconvenience or expense, and would so materially affect the prosperity of the lower Municipality, that they would be induced to examine whether or not they could safely change their course

“Free people of color suffer very much by the improper interference of the abolition fanatics of the North. Their interference makes masters much more rigid with their slaves, and the authorities much more severe in relation to free persons of color, than they otherwise would be. Those abolitionists are mistaken about the condition of the slaves in Louisiana; they are better fed and clad, more healthy and moral than the blacks at the North, and in general appear happy and in good spirits—the abstract question of slavery being settled by the Constitution, is not debateable.

“A free man belonging to Baltimore by the name of Ephraim Larkin, who came here cook of the William Tell, was arrested and thrown into prison a few weeks since, and sent in chains to work on the road. I heard of it, and with difficulty found him; and after the most diligent and active exertions, got him released—in effecting which I travelled in the heat of the day, thermometer ranging in the shade from 94 to 100, more than twenty times to and from prison, the place of his labor, and the different courts, a distance of near three miles from my residence; and after I had established his freedom had to pay for his arrest, maintenance, and the advertising him as a runaway slave, \$29.89, as per copy of bill herewith—the allowance for work not equalling the expenses, the amount augments with every day of confinement.

“I cannot believe the laws of Louisiana require these expenses from free people of color. They apply only to slaves: as when a black person is arrested, if not claimed as a slave or proved to be free in two years, he is sold as a slave; hence it follows that those free men who are arrested, being without money to pay such expenses, become slaves by the operation of the laws of Louisiana, as expounded by the authorities of the third Municipality.

“In pursuing the cook of the William Tell, I found three other free men confined in the same prison, one belonged also to Baltimore, by the name of Leaven Dogerty: he was also released on my paying \$28.00 expenses; one was a descendant of the Indians who once inhabited Nantucket—his name is Eral Lonnon, the grandson of Sarah Tashmy, who with Peter Micha and Joshua Chicken were the only three Indians I remember to have lived at Nantucket during my boyhood. Peter Micha then saved my life: he was, on a warm summer's day, sitting in the shade of Barney Bunker's mill, in approaching which my horse fell and rolled on me, so that I could neither move nor call for help; when the old Indian sprang from his seat, swung his staff and shouted until he caused the horse to release me—and I am very

happy to have had an opportunity to render a service to one of the few that remain of his tribe, before they become extinct. Lonnon had been six weeks in prison; he was released without difficulty on my paying \$20.38 expenses, and no one seemed to know why he had been confined or arrested, as the law does not presume persons of mixed blood to be slaves. But for the others, I had great difficulty in procuring what was considered competent witnesses to prove them free. No complaint of improper conduct had been made against either of them. At one time, the Recorder said the witness must be white, at another, that one respectable witness was insufficient, at another, that a person who had been (improperly) confined and released was not a competent witness, &c. &c. Lonnon has been employed in the South Sea fishery from Nantucket and New Bedford, nearly all his life; has sailed on those voyages in the ships *Eagle*, *Maryland*, *Gideon*, *Triton*, and *Samuel*. He was born at Marshpee, Plymouth [Barnstable] county, Massachusetts, and prefers to encounter the leviathan of the deep, rather than the turn-keys of New Orleans.

“The other was born in St. Johns, Nova Scotia, and bears the name of William Smith, a seaman by profession, and from his own story I was persuaded that he was free. I therefore reported his case to Mr. Crawford, the British consul, who, with his accustomed promptness and humanity, applied for Smith’s release, which was granted on the payment of like expenses.

“Immediately after these men were released, two others were arrested. They attempted to escape, and being pursued, ran for the river in the vain hope of being able to swim across the Mississippi, a distance of a mile, with a current of four knots—one soon gave out and made for a boat which had been despatched for their recovery, and was saved; the other being a better swimmer continued on until much exhausted, then also made for the boat—it was too late; he sank before the boat could reach him, and was drowned. They claimed to be free men. Whether they were or not, I have not been able to ascertain.

“On Sunday last I was called to the prison of the Municipality in which I reside, to serve on an inquest on the body of a drowned man. There I saw one other free man confined, by the name of Henry Tier, a yellow man, born in New York, and formerly in my employ. He had been confined as a supposed runaway, near six months, without a particle of testimony; although from his color, the laws of Louisiana presume him to be free. I applied immediately for his release, which

was promptly granted; at first, expenses similar to those exacted in the third Municipality, were required; but on my demonstrating to the Recorder that the law imposed no such burthen on free men, he was released without any charge whatever. How free men can obtain satisfaction for having been thus wrongfully imprisoned and made to work in chains on the highway, is not for me to decide. I apprehend no satisfaction can be had without more active friends, willing to espouse their cause, than can be found in this quarter. Therefore I repeat, that no person of color should come here without a certificate of freedom from the governor of the state to which he belongs.

“Very respectfully, your assured friend,

“JACOB BARKER.”

“N. B. Since writing the preceding, I have procured the release of another free man from the prison of the third Municipality, on the payment of \$39.65, as per bill, copy herewith. His name is William Lockman, he was born in New Jersey, of free parents, and resides at Philadelphia. A greater sum was required, which was reduced by the allowance of his maintenance (written *labor*) while at work on the road, which the law requires the Municipality to pay; but it had not before been so expounded in the third Municipality. I hope to get it back in the case of the other three. The allowance for labor in addition to their maintenance is twenty-five cents per day; but they require these illiterate men to advance the whole before they can leave the prison, and then to take a certificate for their labor and go for it to another department—to collect which, is ten times more trouble than the money when received is worth. While these free men, without having committed any fault, were compelled to work in chains on the roads in the burning sun for 25 cents per day, and pay in advance 18 3-4 cents per day for maintenance, doctor's, and other bills, and not able to work half their time, I paid others working on ship board, in sight, two dollars per day.

“J. B.”

Here were six men, known to be free born American citizens, arrested, imprisoned, and doomed, like felons, to work in “the chain-gang;” and two others, who claimed to be freemen, attempting to escape a similar doom by

swimming the Mississippi, and one of them perishing in the attempt. And these men, be it remembered, against none of whom had any crime been alleged, would all have been, as probably the one who escaped drowning was, sold into slavery, but for the noble generousness of an individual, who had incidentally become acquainted with their condition.

During the last winter, a gentleman, now a member of this House, passed some time at New Orleans. As he was one day walking the streets of that city, he chanced to fall in with a "chain-gang;" that is, with a collection of colored persons at work in chains on the public road. In the person of one of this "gang," he instantly recognized an old and a valued acquaintance. It was a freeman, who had been several years in that gentleman's employment. On inquiry, it was found, that he had, not long since, arrived in that city from the North, on board of a schooner; that, happening to be absent, though but a short distance from the vessel, one evening, as the eight o'clock gun was fired, he was arrested, while hastening on board, as a runaway slave; that he had endeavored in vain to get information of his situation to his captain; that the vessel had sailed; and that consequently there seemed no other hope for him, but to toil in "the chain gang," during the residue of a twelvemonth, and then to be sold as a slave for life. The liberation of this unfortunate man was not effected without considerable difficulty and painstaking on the part of the gentleman effecting it. It was by the merest accident, that he escaped being sold as a slave.

A case similar to those just adverted to, as occurring at New Orleans, occurred, a few months since, in Virginia. It has been given to the public through the columns of a

New York paper, the Columbia County Republican, in the form of the followin gnarrative :

“TO THE PUBLIC.—It seems due to the inhabitants of Hudson and its vicinity, who so liberally came forward to redeem one of their own citizens from impending slavery, to have a correct statement of the affair and its result laid before them.

“It seems that Jeremiah H. Winney, of Athens, N. Y., received a letter from the jailer of Surrey county, Virginia, stating that a black man who called himself Prince Matice, had been committed to his custody as a runaway slave, and if not proved to be free, would be sold as a slave, for his jail fees and sundry other expenses, enumerated in said letter, and amounting at that time to a considerable sum, which was daily accumulating.

“Prince Matice it seems was born at Schoharie, in this State, and lived several years with Elizabeth Copely, of Harpersfield, a sister of Jeremiah H. Winney’s; that he afterwards removed to Athens, and sailed one season in the sloop William Henry, belonging to Alexander Shaw; that the season following he went in one of the Hudson barges. He afterwards shipped for the West Indies, and from thence to France and back. On arriving in the West Indies on his return voyage, he was taken sick and left in a Hospital, the captain promising to pay him his wages when he returned to Philadelphia, which he expected would be about the commencement of the year 1838. On his recovery, Prince took shipping for a southern port, and while travelling by land was seized as above stated, and informed us through the jailor that he was willing to pledge his coming wages, if he ever received them, to any one who would go on and release him.

“After procuring the necessary legal documents, it was deemed best to make the following application :

“ ‘*To William L. Marcy, Governor of the State of New York, the following case is respectfully submitted :*

“ ‘From the accompanying documents it appears that Prince Matice, a free colored citizen of this State, formerly of Harpersfield, Delaware county, and late of this place, is imprisoned in the State of Virginia for no crime, and is likely to be sold for a slave.

“ ‘This community conceive there is no obligation on them to raise the money demanded as jail fees for this individual, when justice re-

quires that the sufferer should himself be remunerated, and are not inclined to accept his pledge to refund hereafter his hard earnings for that purpose.

“ ‘The trouble and expense of going on for him would be great, and such is the state of things South, that possibly Northern men might not be able to effect his release with safety to themselves. The Governor is respectfully solicited to apply for his release as a citizen of this State, not charged with any crime, from the proper authority in Virginia.

“ ‘R. MCKINSTRY, *Mayor of Hudson.*

“ ‘N. B. The bearer, Charles Marriot, intends presenting the above petition, who will be able to give further information on the subject.

“ ‘R. McK.

“ ‘HUDSON, 5th mo. 23d, 1838.’

“The above was carried to the lodgings of the Governor in Albany, but he had just left for the frontier, on account of the troubles in Canada, and it did not reach him.

“Jeremiah H. Winney having offered to go on to Virginia to identify P. Matice, if furnished with the means, \$80 were raised by voluntary subscription, and paid to him for that purpose. He appears to have faithfully fulfilled his embassy. His testimony given before the Court then sitting in Surrey Court House, was favorably received, the jailer’s fees were reduced, and Prince Matice liberated. Prince has since returned, and called on some of the subscribers in Hudson and Athens, to thank them for their generous and successful efforts to save him from slavery.

“A number of the citizens of Harpersfield, much to their credit, sent on official evidence, with offers of their services on this occasion.

“This subject calls for serious consideration. Cases of a similar kind are of but too frequent occurrence. Favorable circumstances only enabled this individual to escape at the cost of this community of \$80. And yet, the civil authorities of Virginia, so far from exceeding the law, acted with great liberality, and gave us every facility the case afforded. And these our citizens, though entitled by the Constitution to all the rights and privileges of citizens in each of the states, if they travel South are liable to be seized and sold into slavery. Is there no remedy for this? If there be not, then indeed are we reduced

to the sad alternative that would have awaited us had they been captured formerly by the Algerines, viz. to have provided funds for their redemption, or abandon them to hopeless and perpetual servitude.

“ C. M.

“ 1st Month, 1839.”

The following advertisement is extracted from a Mississippi paper of December last :

“ \$50 REWARD.—Ran away from the subscriber, on Thursday last, a negro man named Isaac, 22 years old, about 5 feet 10 or 11 inches high, dark complexion, well made, full face, speaks quick, and very correctly for a negro; wore off a blue frock cloth coat, cassimere roundabout and cloth pantaloons. He was originally from New York and no doubt will attempt to pass himself as free. I will give the above reward for his apprehension and delivery or confinement so that I obtain him, if taken out of the State, or \$30 if taken within the State.

“ Memphis, Dec. 28 -tf

JNO. SIMPSON.”

A New York paper of the 9th ult. declares, that the “ negro man” referred to in this advertisement is a citizen of that state; that his name is Isaac Wright; that he was sold as a slave at New Orleans from on board a steamboat, on which he had shipped as a fireman; that information of this fact having been received by his friends in New York, one of them resolved on attempting his deliverance, and for that purpose proceeded to Mississippi; that by the aid of a colored person in the vicinity of his confinement, he succeeded in finding the man who had been thus robbed of his liberty; and that they were both, at the date of the paper in question, on their way back to the city of New York.

And in the Baltimore papers of the early part of the last month, an advertisement appeared, stating, that a colored man named John Thomas, who affirmed himself to be free, and to have been born and brought up in Boston

had been committed to jail in that city as a runaway slave; and that if he was not speedily claimed by his *owner*, he would be sold for the payment of charges.

Whether this person is, or is not, a freeman, the undersigned has no means of knowing.

The foregoing are a few of the almost innumerable cases of oppression known to have occurred under the operation of that class of the laws of slave-holding states, from which extracts have been given in this report. Extracts from those of the other class, to which reference was made will now be given—beginning with

GEORGIA.—“ All ships or vessels coming into any port of this State by sea, from any port or place in any other state, or any foreign country, having on board any free negro or free person of color, employed as a steward, mariner, or in any other capacity, or as a passenger, shall be subject to quarantine for the space of forty days.”

“ If any free negro or person of color, so coming in the said ship or vessel, shall come on shore, or have any communication with any person of color residing in this state, while the said ship or vessel shall be riding at quarantine as aforesaid, such negro or person of color shall be immediately apprehended, and committed to the common jail of the county where he shall be apprehended, &c. &c., there to remain until the said ship or vessel shall be actually departing from the waters of this state, or shall be hauled off from the wharf and ready to proceed to sea, or until he or she shall be otherwise discharged by law.”—*Laws of Georgia, 1829, pp. 168-69. See also Prince's Digest of Laws of Georgia, pp. 802-3; and the Laws of North Carolina, 1830, Chap. 30.*

“ Any person who shall remove or carry, or cause to be removed or carried away out of this state, or any county thereof, any slave, being the property of another person, without the consent of the owner, or other person having authority to give such consent, and without any intention or design on the part of the offender, to sell or otherwise appropriate the said slave to his own use, or to deprive the owner of his property in said slave, shall be guilty of a misdemeanor, and be punished

by fine, or imprisonment in the common jail of the county, or both, at the discretion of the court.”—*Prince’s Digest of the Laws of Georgia*, p. 656.

SOUTH CAROLINA.—“From and after the passing this act, it shall not be lawful for any free negro or person of color to migrate into this state, or be brought or introduced into its limits under any pretext whatever, by land or by water, &c. &c.

“It shall not be lawful for any free negro or person of color to come into this state on board of any vessel as a cook, steward, or mariner, or any other employment on board of such vessel; and in case any vessel shall arrive in any port or harbor of this state, from any other state or foreign port, having on board any free negro or person of color, employed on board such vessel as a cook, steward, or mariner, or in any other employment, it shall be the duty of the sheriff of the district in which such port or harbor is situated, immediately on the arrival of such vessel, to apprehend such free negro or person of color so arriving contrary to this act, and to confine him closely in jail until such vessel shall be hauled off from the wharf, and ready to proceed to sea; and that when said vessel is ready to sail, the captain of the said vessel shall be bound to carry away the said free negro or person of color, and to pay the expenses of his detention; and in case such captain shall refuse or neglect to pay the said expenses, and to carry away the said free negro or person of color, he shall forfeit and pay the sum of one thousand dollars, and be liable to be indicted therefor, and also to suffer imprisonment for any term or time not exceeding six months.”—*Laws of South Carolina, 1823, Chap, 20. See also Revised Code of Mississippi, p. 337.*

VIRGINIA.—“Whoever shall hereafter carry, or cause to be carried, any slave or slaves out of this Commonwealth, * * * * without the consent of the owner or owners of such slave or slaves, or of the guardian of such owner or owners, if he she or they be a minor or minors, and with intention to defraud or deprive such owner or owners of such slave or slaves, shall be adjudged guilty of felony, and upon conviction thereof shall be punished by a fine not less than five hundred dollars, and shall also be imprisoned in the jail or penitentiary house, for a period not less than two nor more than four years, which fine and imprisonment shall be fixed and ascertained by a jury. And the person offending herein shall moreover be subjected to pay to the

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owner or owners of the slave or slaves, carried away as aforesaid, double the value of such slave or slaves.

And as doubts may arise, as to what shall be considered such a carrying away or removal within the meaning of the last section; *Be it further enacted*, That not only all those who shall willingly and designedly carry away slaves as aforesaid, but all masters of vessels, who, having a slave or slaves on board their vessels, shall sail beyond the limits of any county, with such slave or slaves on board, shall be considered as carrying off or removing such slave or slaves within the true intent and meaning thereof."—*Revised Code of the Laws of Virginia*, p. 42S.

LOUISIANA.—“If any master or commander of any ship, vessel, or other water craft in this state, or any other person, shall carry and convey out of the same, on board of any such ship, vessel, or other water-craft, any slave or slaves, the property of any person or persons of this state, without the consent of the owner or owners of the said slave or slaves previously obtained; or shall take and receive on board of any such ships, vessels, or other water craft, any such slave or slaves, or permit or suffer the same to be done, with the intent and for the purpose of carrying and conveying such slave or slaves out of this state; or shall wickedly and willingly conceal or permit to be concealed on board of any such ship, vessel, or other water craft, any slave or slaves who shall or may hereafter abscond from their master or mistress, with the intent and for the purpose of enabling such slave or slaves to effect his or her escape out of this state, every such master or commander of any such ship, vessel, or other water craft, or any other person, so carrying and conveying, or so taking, receiving, and concealing, or causing or permitting the same to be done with an intent as aforesaid, shall be subject to a criminal prosecution, and on conviction of any of the said offences, shall suffer imprisonment at hard labor for a term not exceeding seven years, and not less than three years, and moreover the said master or commander, or any other person, shall be sentenced to pay all the damages that the owner or owners of the said slave or slaves may have suffered thereby, which damages shall be assessed by the same jury who shall give their verdict on the criminal prosecution; *Provided*, That whenever any slave or slaves shall be found on board any ship, vessel, or other water craft, the presumption shall be that such slave or slaves were received or concealed on board said ship, vessel or other water craft, with the intent aforesaid, saving to the party accused

the right of showing the contrary.”—*Martin's Digest of the Laws of Louisiana*, pp. 676, 678.

Cases of oppression of free citizens of Massachusetts, and of other free states, occurring under the operation of this class of the laws of slaveholding states, though generally somewhat less severe, are not less frequent, than those which occur under the operation of the former class. The laws are rigidly enforced, and their effect is therefore perpetually and severely felt, both by our colored citizens employed on board of vessels visiting the ports of southern states, and by the *uncolored* masters of such vessels. In pursuance of the plan adopted in the present report, a few of those facts of oppression will be now submitted. They are presented, like the other facts which have been given in this report, as specimens.

Several affidavits of colored citizens of New Bedford, in this State, who have suffered under the laws in question, were laid before your Committee. The following are copies of a couple of those affidavits :

“I, John Cory, a free born citizen of Massachusetts, a native of the town of Westport in this State, do declare, that in the A. D. 1824, I shipped, as steward, on board of sloop Rodman, Peleg Crowel, master, for a trading voyage, that in course of said voyage the sloop aforesaid put into Charleston, in the state of South Carolina, that as soon as we arrived at said Charleston, a couple of persons, calling themselves officers, came on board, and demanded me of Capt. Crowel for the purpose of putting me in jail. Captain remonstrated, offered to be my surety for good behavior, offered to prove my birth, but all was unavailing. I was taken from the sloop and shut up in a jail for the period of about sixteen days, when the sloop having got ready to sail I was released and put on board. While I was imprisoned as aforesaid, seven others, colored like myself, were in prison. No offence was charged upon any of us. We were told it was necessary for the security of their state to keep us in prison.

JOHN CORY.

“ Bristol ss.

New Bedford, January 31, 1839.

Then personally appeared the above named John Cory, and made oath before me, that the foregoing statement by him subscribed is true.

JOHN BURRAGE,

Justice of the Peace.

“ I, Richard Johnson, a free citizen of the State of Massachusetts, residing in New Bedford, aged sixty-four years, do declare, that I was in the aforesaid sloop Rodman with John Cory, and that his aforesaid statement is strictly true,—that I chartered said sloop for said voyage with said Captain Crowell, and as *I was not a ‘ man before the mast, a steward, or cook,’* when I was arrested with Cory for the purpose of being committed to jail, the Captain represented to the magistrate before whom I was carried that I was a part owner,—whereupon I was ordered to leave the state forthwith, or go to jail with the steward. I chose the former, left immediately, and suffered a loss of near \$500 by being thus forcibly taken from my sloop—and all because I was guilty of a colored skin !

RICHARD JOHNSON.

“ Bristol ss.

New Bedford, January 31, 1839.

Then the aforesaid Richard Johnson personally appeared and made oath to the truth of the foregoing statement by him subscribed, before me.

JOHN BURRAGE,

Justice of the Peace.”

Mr. Johnson is well known in New Bedford, as a person of more than ordinary intelligence and respectability ; and he states, in a letter to the undersigned, enclosing the affidavits, which have just been read, that “ others might be obtained on longer notice.” Indeed, it is well known, that facts of this kind may be obtained from the captain of every northern vessel, that has visited Charleston with colored persons on board.

There resides, at this time, in Boston, a colored man, by the name of George Tolliver, who has been incarcerated seven different times, on arriving at southern ports, as a seaman, or steward, on board of northern vessels. On one of these occasions, there were confined in the

same prison with him twenty-five citizens of this State ; on another, seventy-five, belonging to different free states. This man, also, is more than ordinarily intelligent and respectable ; and he stated these facts, respecting himself, to the undersigned, on the 9th ult., before Samuel E. Sewall, Esq., of Boston. It was also stated by him, that when thus imprisoned, he was denied a sufficiency of food, and compelled to perform various menial and disgusting offices in the prison ; though, at the same time, the captain was obliged to pay a full, if not an exorbitant, price for his board. Mr. Tolliver was, and is, prepared to furnish the names of a considerable number of freemen, who had been, like himself, imprisoned at the south, and under similar circumstances.

On the 11th ult., the ship *Chilo* arrived at Boston, from Charleston, S. C., with two colored men on board. The undersigned had an interview with the mate of that ship. The account given by that gentleman of the treatment of those colored persons by the authorities of Charlestown, during the two months the *Chilo* lay at that port, corresponds in every essential particular with that given by Mr. Tolliver of himself, and confirms the truth of a remark made to the undersigned by another citizen of this State, who had, many years ago, experienced the same oppressive treatment, and in the same place, “ that South Carolina is as strict as ever in the enforcement of her safety laws, so called.”—The mate of the *Chilo*, as might be expected, complained strongly of the law, on account of the severity of its operation upon masters and owners of vessels, whom it subjects to great perplexity and trouble, in addition to the heavy expense it imposes, by depriving them of the services of their seamen, and compelling them to supply, as well as they may, the pla-

ces of those seamen, by the temporary employment of other persons.

The undersigned is not in possession of any certain knowledge on the subject, but he has been given to understand from various sources, that these "safety laws, so called," are not now, and have not been for some years past, attempted to be enforced in respect of British vessels, visiting the ports of our southern states. This opinion derives confirmation from a statement recently made to the undersigned by a member of the Suffolk bar. The statement was substantially this. Several years ago, he went, in one of our ships, to Charleston, S. C. On board the ship were two colored persons. On arriving in port, they were boarded by an officer, who demanded of the captain the delivery of such persons of color as he might have with him, that they might be taken ashore, and confined in prison during the continuance of the ship in that port. One of those colored seamen was permitted by the officer to remain on board, on the ground, alleged by the captain, of his being an Indian. The other, whose darker skin rendered his origin less dubious, was sent by the captain on board of a British vessel, then lying in the harbor. And there, under the Red Cross of the English monarchy, he found that protection, which the ægis of his own American Eagle was not broad enough to extend to him. There has been, it is believed, no instance of the enforcement of the laws in question, with regard to British subjects, since 1826. In that year, four colored persons were taken from on board a vessel of that nation, at the port of Charleston, S. C. The event caused a deep sensation. And "old England," it is said, exhibited some tokens of a disposition to defend the honor of her insulted flag from any further and simi-

lar outrage that might be attempted upon it. The act was remonstrated against at Washington ; and if no definite action was there had on the subject, it is understood, that there has since been no enforcement of these “safety laws” against subjects of Great Britain.

The severity with which this class of the laws of slaveholding states operate on masters of vessels visiting the ports of such states, is scarcely less tolerable, than that which they visit upon our colored citizens employed on board of those vessels. The great inconveniences and burdensome expenditures to which those masters are subjected by the temporary imprisonment of their seamen when in southern ports, are by no means the least of the evils to which they are exposed by the operation of the laws in reference. They are exposed, under those laws, to the imposition of expenses still more burdensome, in the shape of fines, and to be visited with ignominious punishment by the incarceration of their own persons. If a captain leave a southern port—say a port of Virginia, for example—with a slave on board his vessel, he “shall,” in the language of the statute of that state, already quoted in this report, “be adjudged guilty of felony, and upon conviction thereof, shall be punished by a fine not less than five hundred dollars, and shall also be imprisoned in the jail or penitentiary house, for a period not less than two nor more than four years.” And such,—according to a declaration of the same statute,—shall be the judgment, and such the penalty in every such case, though the fact of there being any such slave on board of said vessel were proved to have been utterly unknown, both to the captain, and to every other soul belonging to the vessel!

A captain of a vessel belonging to Fall River, in this

State, was, together with his mate and crew, subjected to treatment most unjustifiable and cruel, at Wilmington, North Carolina, under a law of that state, similar, though perhaps not quite equal in severity, to this of Virginia. Entirely without the knowledge of the captain, the mate, or any of the crew, a slave had secreted himself on board his vessel. The slave was discovered in consequence solely of a suggestion made by the captain himself, after those in search of him had given up the search, and were about to leave the vessel. Yet the captain, mate, and crew, were forthwith hurried to jail. The greatest indignity, violence of passion, and insult were manifested towards the captain. He, however, was bailed out; and a bond of indemnity having been given—for an action had been brought against him for the recovery of the fine of five hundred dollars—he was permitted to leave the state, and prosecute his voyage. Afterwards, the mate, having procured bail, was also delivered from prison. But some ten months elapsed, and the crew were still in confinement, exposed by their situation to great suffering. These facts in relation to the Fall River vessel, were testified to by Samuel Green, a citizen of Massachusetts, before a Committee of this Legislature, in 1836. At the time of their occurrence, Mr. G. was at Wilmington. Sometime afterwards, his business required that he should again visit the place; but so much bitterness and ill will had sprung up there against him, on account of the friendly regard he had manifested for the imprisoned seamen of the aforesaid vessel, that he was urged by his friends not to adventure thither.

A newspaper, called the "Wilmington Press," and published at that place, in remarking on this affair of the Fall River vessel, just after it had taken place, employed the following language: "And all this trouble, cost, and

distress, has been brought about, for what? Nothing in the world but that strangers will be meddling with our municipal laws, even to their infraction—laws that in no way affect them, neither in person or property, but which are essential to our self-preservation. They will intermeddle although they know, that to carry away a slave, intentionally, is death on conviction; and the commanders of vessels will be careless and negligent, although they know that they are liable to a fine of \$500, if a slave is found on board, even without their knowledge. We would, in the spirit of sincere friendship, warn them that the laws *will be enforced*—as heart-rending as the event would be to all, the dreadful penalty of the laws will be enforced, on the first conviction.”—Comment on such sentiments were superfluous.

Some of the laws belonging to the class under consideration may affect our captains very injuriously in another respect. For example: the law of South Carolina, which authorizes the imprisonment of our colored mariners during the continuance in her ports of the vessels to which they are attached, also provides, that if the captain of any such vessel should sail without taking on board those mariners, thus imprisoned, he shall himself suffer imprisonment, and pay a fine of one thousand dollars.

In 1823, a petition, signed by captain Jared Bunce, master of one of the packets plying between Philadelphia and Charleston, and forty-one others, also captains of American vessels, then lying at the port of Charleston, was presented to Congress. The petition affirmed this law of South Carolina to be contrary to the Constitution of these United States, and prayed Congress to adopt such measures as would release them from the oppressive situation in which that law had placed them. What dis-

position was made of this petition, the undersigned has not learned. He would be glad, were he able to state, that it was regarded with as much favor, as the remonstrance made at the same place, and against the same law, by certain of the subjects of George IV. It may not be unimportant to add, that captain Bunce had, on one occasion, when two "free persons of color, and native citizens of the United States," were taken from his vessel and imprisoned, "appealed to a court of South Carolina for a habeas corpus, to inquire into the cause of the arrest and detention of" those persons; 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 determined 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."

In reference to the facts which have now been detailed, the undersigned would respectfully submit, if some action ought not to be taken by this Legislature. Does not Massachusetts owe it, alike to her citizens, and to her own dignity and honor, to utter her solemn protest against those laws of her sister states, which rob so many of her citizens of the "privileges and immunities," guaranteed to them by the Constitution of the United States? And is she not bound by the same reasons, to do what she may to protect those citizens in the enjoyment of their inalienable rights?

It has been seen, that, under the laws in question, citizens of Massachusetts, whose complexion chances to be less fair than that of the more fortunate race, going into those states for purposes of business, or happening to be driven thither by circumstances of unavoidable adversity even, may, though guilty of no crime, nor accused of any, be arrested and imprisoned as runaway slaves, and, if unable to prove their freedom by the testimony of white men, be sold into slavery for life; that citizens so arrested and imprisoned, should they succeed in proving their freedom, would even then be doomed to the horrors of slavery, if not able to pay the expenses imposed on them for jailers' fees, board, and doctors' attendance; that this *might* happen to men occupying the loftiest stations of trust and honor under the government of this Commonwealth—for here no legal obstacle, or, in the words of another report, lately presented to this House, “no restraint, save that of prejudice, prevents the man of color from seeking the highest honors and holding the most elevated offices of church or state;” that those citizens, on visiting certain southern ports as seamen, are always incarcerated, and often subjected to great suffering, during the continuance in such ports of the vessels to which they belong—besides being liable, should they chance to get left by their captains, to be sold into bondage; that, by this practice, the owners of such vessels are subjected to burdensome expenses, and the masters of them to great perplexity and trouble, as also to heavy fines and imprisonment, if by any means they should leave port without their imprisoned seamen; and that the captains of *all* our vessels visiting southern states, whether there be or be not colored persons belonging on board, are exposed to the loss of their property, and to the igno-

miny of incarceration, if a slave secrete himself on board one of their vessels, though he do so without the knowledge of the master, or of any of the crew.

If a tithe of this injustice were inflicted upon our citizens by a foreign people, Massachusetts would be shaken from the centre to the circumference. And must she quietly endure it all, merely because it chances to be done by her own sister states? Should she not, will she not, at least, lift up her voice against it? And will she not, also, do what she may to protect and preserve the personal liberty of her citizens, however humble, even, may be the condition of those citizens? In the judgment of the undersigned, there can, there will, be but one answer to these interrogatories, by all who reverence and honor the state of their nativity and cherish a fitting regard for the sacred rights of her citizens. He, therefore with entire confidence, offers for the adoption of the Legislature, the accompanying preamble and resolves.

All which is respectfully submitted,

GEO. BRADBURN.

Commonwealth of Massachusetts.

In the Year One Thousand Eight Hundred and Thirty-Nine.

RESOLVES

Touching certain laws of slave-holding States, which affect the rights of citizens of Massachusetts.

WHEREAS, under the laws of several states in this Union, a part of the citizens of this Commonwealth, visiting those states for purposes of business, and others driven thither by misfortune, may be, and, in point of fact, often have been, and do still continue to be, though entirely guiltless of crime, incarcerated in prisons, subjected to onerous fines, and in many instances sold into temporary, and not seldom into perpetual slavery; therefore,

1. *Resolved*, That this Legislature deem it a paramount duty of the state, to protect its citizens in the en-

joyment and exercise of all the rights, to which, by virtue of their citizenship, they are entitled.

2. *Resolved*, That this Legislature do solemnly protest against the laws in question as a direct invasion of the sacred rights of citizens of this Commonwealth, as palpably contrary to both the letter and the spirit of the Constitution of these United States, and as in utter derogation of that great principle of the common law, which presumes every man to be innocent, and treats him as such, until he be proved guilty.

3. *Resolved*, That this Legislature, not willing that so important a matter as the liberty of a citizen of Massachusetts should depend on the precarious bounty of individual benevolence, do hereby authorize His Excellency the Governor, whenever it shall be made to appear to His Excellency's satisfaction, that a citizen of this Commonwealth is imprisoned on suspicion of being a slave, to employ, at the public expense, a suitable person as agent, whose duty it shall be, to procure the requisite proofs in the case, to proceed, if necessary, to the state where the individual is so imprisoned, to lay the matter before the proper authorities, and, having obtained the release of the said individual, to bring, or cause him to be brought, to a place of safety; and that His Excellency be hereby empowered to draw on the treasury of this Commonwealth for the expenditures of such agency and procedure.

4. *Resolved*, That His Excellency the Governor be requested to transmit copies of this report and these resolves to the Executives of the several states of this Union, and to each of our Senators and Representatives in the 26th Congress of the United States.

