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Thomas Cole, Peter Bassnett Mathews, And Matthew Webb Petition to the South Carolina Senate, January 1, 1791

Over 100,000 blacks lived in South Carolina in 1790—more than 43 percent of the state’s total population. Only 1,801 were free (586 of them lived in Charleston). Slaves and free blacks had no access to the state’s courts, but were subject to special magistrates’ and freeholders’ courts. The three petitioners here did not base their claim for additional rights on a federal bill of rights (which had not yet been ratified) but on Article I, section 2 of the United States Constitution, which counted them as free persons for the purpose of representation. The state of South Carolina received the benefit of the petitioners’ free status in its representation to the U.S. House of Representatives and the petitioners paid taxes to the state. The petitioners asked for the right to testify in court and to enter into contracts. They were willing to take any oath and perform any duty to defend the state. They did not expect to “be put on an equal footing with the Free White Citizens of this State in general. “But, because free blacks were unprotected by state constitutional guarantees, they were not accorded the right to petition the legislature, and the South Carolina senate refused to accept their petition.

To the Honorable David Ramsay Esquire President and to the rest of the Honorable New Members of the Senate of the State of South Carolina.

The Memorial of Thomas Cole Bricklayer, P. B. Mathews and Matthew Webb Butchers on behalf of themselves & other Free Men of Colour.

Humbly sheweth That in the Enumeration of Free Citizens by the Constitution of the United States for the purpose of Representation of the Southern States in Congress, Your Memorialists have been considered under that description as part of the Citizens of this State. Although by the Fourteenth and Twenty Ninth Clauses in an Act of Assembly made in the Year 1740 and intituled an Act for the better Ordering and Governing Negroes and other Slaves in this Province commonly called The Negroe Act now in force, Your Memorialists are deprived of the Rights and Privileges of Citizens by not having it in their power to give Testimony on Oath in prosecutions on behalf of the State from which cause many Culprits have escaped the Punishment due to their Atrocious Crimes (nor can they give their Testimony in recovering Debts due to them, or in establishing Agreements made by them within the meaning of the Statutes of Frauds and Perjuries in force in this State except in cases where Persons of Colour are concerned, whereby they are subject to great Losses and repeated Injuries without any means of redress.

That by the said Clauses in the said Act, They are debarred of the Rights of Free Citizens by being subject to a Trial without the benefit of a Jury and subject to Prosecution by testimony of Slaves without Oath by which they are placed on the same footing.

Your Memorialists shew that they have at all Times since the Independence of the United States contributed and do now contribute to the support of government by chearfully paying their Taxes proportionable to their Property with others who have been during such period, and now are in full enjoyment of The Rights and Immunities of Citizens Inhabitants of a Free Independent State.

That as your Memorialists have been and are considered as Free-Citizens of this State they hope to be treated as such. They are ready and willing to take and subscribe to such Oath of Allegiance to the States as shall be prescribed by this Honorable House, and are also willing to take upon them any duty for the preservation of the Peace in the City or any other occasion if called on.

Your Memorialists do not presume to hope that they shall be put on an equal footing with the Free White Citizens of this State in general. They only humbly solicit such indulgence as the Wisdom and Humanity of this Honorable House shall dictate in their favor by Repealing the Clauses [in] the Act beforementioned and substituting such a Clause as will effectually Redress the grievances which your Memorialists humbly submit in this their Memorial but under such restrictions as to your Honorable House shall seem proper.

May it therefore please your Honors to take your Memorialists Case into tender consideration, and make such Acts or insert such Clauses for the purpose of relieving your Memorialists from the unmeritted grievance they now Labour under as in your Wisdom shall seem meet. And as in duty bound your Memorialists will ever pray—

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