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## The Causes and Consequences of the South Carolina Negro Seamen's Act

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**Brandon Boyle** was born and raised in Conway, South Carolina and, from a young age, always wanted to attend Coastal Carolina University. He graduated in May 2020. As an undergraduate, Brandon was an SAF Research Fellow, a member of the United Nations Georgetown RISE Youth Corps, interned with the Anastopoulos Law Firm, presented research papers at several academic conferences, and won numerous academic awards. He notes that he also had the privilege of being mentored by some great CCU professors. He is currently pursuing a law degree.

The Causes and Consequences of the South Carolina Negro Seamen's Act  
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On December 21 1822, South Carolina's legislature passed the Negro Seamen's Act in response to the Denmark Vesey conspiracy, a slave uprising that was thwarted five months earlier in Charleston, South Carolina. The Negro Seamen's Act was designed to prevent the local slave population from revolting against the authorities. As a result free black sailors entering the port of Charleston were apprehend upon arrival to prevent them from spreading ideas of revolution and freedom to local slaves. Northern states and foreign nations whose seamen were imprisoned in Charleston jails without committing a crime were appalled. Attorney Benjamin Hunt stressed that South Carolina did have the power to pass such a law and that it was a power, "upon the exercise of which, her dearest and most vital interests depend—That such a power is the rightful and inalienable attribute of a sovereign state—That its exercise must depend upon the views of policy, and upon the individual discretion of the State—which can alone, safely decide in matters, involving self-preservation."<sup>1</sup> The question of constitutionality and states' rights surrounding this law drove a wedge between the free and slave states from its passage until the Civil War. For many South Carolinians, this act was vital to the survival of the state. This was because outside troublemakers, including free black sailors, posed a threat to the safety of the

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<sup>1</sup> Hunt, Benjamin Faneuil, Henry Elkison, Francis Gottier Deliesseline, and United States Circuit Court, *The argument of Benj. Faneuil Hunt, in the case of the arrest of the person claiming to be a British seaman, under the 3d section of the State Act of De, in relation to Negroes, &c. before the Hon. Judge Johnson, Circuit Judge of the United States, for 6th Circuit: ex parte Henry Elkison, claiming to be a subject of His Britannic Majesty, vs. Francis G. Deliesseline, sheriff of Charleston District.* (Charleston: Printed and sold by A.E. Miller, 1823), 17-18.

state and to South Carolinians' way of life. Thus, strict laws were needed to keep blacks from revolting.

South Carolina's concern about outside interference began in the previous century. In the fall of 1739, England and her colonies were at war with Spain. At the time, Florida was a Spanish territory. On Sunday September 9<sup>th</sup>, about sixty slaves marched from the banks of the Stono River towards St. Augustine in hopes of gaining their freedom. Along the way, the slaves killed whites and looted their homes until the local militia put down the rebellion.<sup>2</sup> The revolt became known as the Stono Rebellion. It was the first and largest organized slave insurrection in British North America and it truly tested the resolve of the authorities. Many historians now argue that this rebellion was brought on by the Spanish in St. Augustine, just 275 miles south of Charles Town.<sup>3</sup>

Fearful of another uprising, South Carolina passed the notorious slave code of 1740. The code forbade slaves to learn how to read and write; it also prohibited them from drinking strong liquor and gathering in large groups without white supervision. It required slaves to have a note signed by their master if they traveled, and required masters to take better care of their slaves, requiring them to provide their slaves with clothes and shoes as well as giving Sundays off from work.<sup>4</sup> The passage of this state code by the South Carolina legislature was an attempt to control the rapidly growing black population, which had outnumbered the white population since 1708.

In 1791, the slaves of the French colony of Saint Dominique rose up against the island's white authorities. This revolt was much larger than South Carolina's Stono Rebellion, had better

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<sup>2</sup> Darold D. Wax, "'The Great Risque We Run': The Aftermath of Slave Rebellion at Stono, South Carolina, 1739-1745," *The University of Chicago Press Journals*, (1982): 136-147.

<sup>3</sup> Wax, "*The Great Risque We Run*," 136-147.

<sup>4</sup> Transcription from David J. McCord, *Containing the Acts Relating to Charleston, Courts, Slaves, and Rivers*, (The Statutes at Large of South Carolina, Columbia, SC, 1840), 397.

leadership, and was better organized; most importantly, it was successful whereas the Stono Rebellion had failed. South Carolinians feared that the revolution in Saint Dominique would spread to Charleston. Therefore in 1792, Charleston closed its port to the importation of slaves and in 1803, passed a law that banned all black men (free or slave) who had been a resident of any French West Indian Island from entering the state.<sup>5</sup> In 1804, after thirteen years of war between the Saint Dominique rebels and the Spanish, British, and French armies, the revolution ended with the massacre of all the remaining whites on the island. Former slaves established the Republic of Haiti, and the news of this successful insurrection spread through the United States like wildfire. The Haitian Revolution encouraged American slaves to believe that they too could gain their freedom one day if they had a successful rebellion. The Haitian rebels were considered heroes by many blacks in the American South.<sup>6</sup>

In 1800, a slave named Demark Vesey won a \$1,500 prize in Charleston's East Bay street lottery and purchased his freedom from his master for \$600. Vesey opened his own carpentry business in downtown Charleston, became a leader of the Charleston African Methodist Episcopal Church and arguably one of the most respected black men in town. He also interacted with black sailors who arrived in Charleston who linked him to the Caribbean.<sup>7</sup> Vesey wanted to lead an uprising similar to the Haitian Revolution. According to the official *Trial Record of the*

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<sup>5</sup> Melissa Gismondi, "How Far Will They Go God Knows": Slave Policing and the Rise of the South Carolina Association in Charleston, S.C., 1790s-1820s, (2012): 49-50.

<sup>6</sup> Mitchell A. Kachun, "Antebellum African Americans, Public Commemoration, and the Haitian Revolution." *Journal of the Early Republic* 26, no. 2 (2006): 249-73.

<sup>7</sup> Israel Thorndike Pamphlet Collection. *Negro plot: an account of the late intended insurrection among a portion of the blacks of the city of Charleston, South Carolina*. Boston: Printed and published by J.W. Ingraham, 1822. 1-50.

*Demark Vesey Slave Conspiracy of 1822*, Vesey's plan called for six different groups to have separate objectives. Their missions included an attack upon an arsenal near St. Michael's Church and an attack upon an arsenal along the county side. One group would murder the governor, another would attack the guardhouse, a third group would attack the powder magazine, and the final group would assemble at Vesey's house and march into the town. On June 16 starting at midnight, each group would move on their target at assigned times.<sup>8</sup> While these attacks were happening, others on horseback were, "To ride through the streets, and kill every person they might meet, and prevent them from assembling, or extending the arms."<sup>9</sup> The city was to be, "Set fired, and an indiscriminate slaughter of the whites to commence, and also of those of their own colour who had not joined them, or did not immediately do so."<sup>10</sup> Vesey told the slaves that they too could gain their freedom and that he himself had the ability to successfully lead their rebellion.<sup>11</sup>

Vesey chose the date July 14, 1822, for his rebellion; it coincided with the day the French Revolution started, known as Bastille Day. However, in late May, Charleston authorities were tipped off that a planned slave revolt was to take place in July. The police and Charleston city council brought in a slave named William Paul in for questioning. Paul at first did not cooperate and was therefore put in the black hole of the Charleston workhouse for a week.<sup>12</sup> This broke his

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<sup>8</sup> Vesey, Denmark, Lionel Henry Kennedy, and Thomas Parker, *An Official Report of the Trials of Sundry Negroes, Charged with an Attempt to Raise an Insurrection in the State of South-Carolina: Preceded by an Introduction and Narrative: and, in an Appendix, a Report of the Trials of Four White Persons on Indictments for Attempting to Excite the Slaves to Insurrection*. (Charleston, SC: James R. Schenck, 1822), 36.

<sup>9</sup> Vesey, Kennedy, and Parker, *An Official Report of the Trials of Sundry Negroes*, 37.

<sup>10</sup> Ibid

<sup>11</sup> Michael Schoeppner, Peculiar Quarantines: The Seamen Acts and Regulatory Authority in the Antebellum South, *Law and History Review*, (2013), 559–586.

<sup>12</sup> Richard C. Wade, The Vesey Plot: A Reconsideration, *The Journal of Southern History*, (1964), 143–161.

will and Paul confessed, and leaked the names of Mingo Harth and Peter Poyas. These two were brought in for questioning, but disclosed nothing. Paul continued to leak names of individuals who he believed were involved in the planned conspiracy. They were all brought in for questioning, but disclosed nothing. However, on June 14, another slave corroborated with Paul's testimony disclosing the planned rebellions new set date of June 16. This warned officials, which ultimately brought Vesey's conspiracy down.<sup>13</sup> A total of 130 blacks were linked to the conspiracy; eventually thirty-five were hanged and thirty-two were exiled. Vesey was brought in for questioning on June 21.<sup>14</sup> He and five other conspirators were hanged from the Charleston gallows on July 2 1822.<sup>15</sup> To prevent further rebellion, South Carolina had to take drastic action to prevent outside influence from poisoning and corrupting the minds of slaves. This caused the state legislature to pass the Negro Seamen's Act.

When a vessel arrived in Charleston an inspector boarded the ship and took all seafaring persons of color into custody until the vessel was ready to debark. This prevented outside influence by blocking free blacks from interacting with local slaves. The captain bore the responsibility of paying a fine (or bail) to retrieve the sailors from jail. If the captain did not come forth with the necessary bond, the sailor could be sold into slavery.<sup>16</sup> South Carolina

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<sup>13</sup> Wade, "The Vesey Plot," 143-161.

<sup>14</sup> Ibid

<sup>15</sup> Thorndike, *Negro Plot*, 1-50.

<sup>16</sup> Johnson, William, and Henry Elkison. *The opinion of the Hon. William Johnson, delivered on the 7th August, in the case of the arrest of the British seaman under the 3d section of the state act, entitled, "An act for the better regulation of free Negroes and persons of colour, and for other purposes," passed in December last: ex parte Henry Elkison, a subject of His Britannic Majesty, vs. Francis G. Deliesseline, sheriff of Charleston District.* 1-15.

viewed all black sailors as foreigners and it is estimated that no less than five hundred free black sailors were sized annually in Charleston.<sup>17</sup>

After passage of the Act, planters and politicians who lived around the Charleston area wanted extra reassurance that another slave insurrection would never occur and decided to take matters into their own hands. In 1823, they created an organization known as the South Carolina Association in response to the Vesey conspiracy and to assure proper legislation was passed in order to protect their interests. This association consisted of only the most prominent men in the low country with the single goal in mind: policing blacks.<sup>18</sup> The association quickly became very influential. In 1823, the association petitioned the South Carolina legislature to strengthen and amend the Negro Seamen's Act of 1822 by preventing all free persons of color from any part of the world from ever entering the state by land or sea. The association wanted to include new provisions to tighten up the original laws because they believed that the original wording was too mild. The legislature agreed with the Association and amended the 1822 Act and passed the Negro Seamen's Act of 1823.<sup>19</sup> The legislature and members of the South Carolina Association believed that black Atlantic sailors posed a true threat to the safety of the state.<sup>20</sup> The Association had writers express their views in local newspapers and maintained attorneys to defend their interests in court. This association quickly gained popularity and became one of the most

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<sup>17</sup> Edlie L. Wong, *Neither Fugitive nor Free: Atlantic Slavery, Freedom Suits, and the Legal Culture of Travel* (New York: New York University Press, 2009), 111-141.

<sup>18</sup> Alan F. January, *The South Carolina Association: An Agency for Race Control in Antebellum Charleston*, (*South Carolina Historical Society*, 1977), 191–201.

<sup>19</sup> *Ibid*

<sup>20</sup> Michael A. Schoepner, *Moral Contagion: Black Atlantic Sailors, Citizenship, and Diplomacy in Antebellum America* (*Cambridge United Kingdom*, 2019)



influential and important organizations in policing blacks until their activity ceased at the start of the Civil War.<sup>21</sup>

The Negro Seamen's Act was amended once again in 1835 to strengthen its control over free black sailors. This amendment subjected black sailors who ever reentered South Carolina to be sold as a slave in the Charleston public auction.<sup>22</sup> The money raised at the auction would be divided between the informer and the state. South Carolina made it very clear that black sailors were either slaves or prisoners. In 1844, the Negro Seamen's Act was amended again. This amendment denied the writ of habeas corpus to all free black sailors who entered Charleston and were apprehended by any sheriff. This essentially made black sailors dead to the law in South Carolina.<sup>23</sup>

A landmark court case surrounding the Negro Seamen's Act was *Elkison vs Delieesseline* in 1823. Henry Elkison was a free black British sailor who was incarcerated when the British ship *Homer* arrived in Charleston in March 1823. While in jail, Elkison sued the sheriff on the grounds of writ of habeas corpus. The attorneys who defended sheriff Delieseeline were the South Carolina Association's solicitor, Isaac E. Holmes, and Charleston attorney Benjamin Hunt. Hunt argued that the passage of the Negro Seamen's Act was necessary for the survival of Charleston and that it was, "A mere police regulation, which the peculiar circumstances of the State require. Each nation has a right to choose on this subject as well as all others, the laws

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<sup>21</sup> Melissa Gismondi, "How Far Will They Go God Knows," 49-50.

<sup>22</sup> Wong, "Neither Fugitive nor Free," 111-141.

<sup>23</sup> Wong, "Neither Fugitive nor Free," 111-141.

most agreeable to circumstances.”<sup>24</sup> South Carolina argued that by regulating free persons of color during their time in Charleston, it would help prevent any future rebellions.<sup>25</sup>

Hunt alleged, “This State, having a large slave population, conceives it prudent to guard against the moral contagion which the intercourse with foreign Negroes produces, and therefore she prohibits them from remaining in any other part of the State, than the place designated by the act.”<sup>26</sup> Hunt argued that each individual state knew what best suited its needs and could effectively govern themselves. Therefore South Carolina had, “the right to define the conditions, upon which foreigners shall enter their territories. But it is contended, that although there be no express relinquishment of this natural right, yet, as Congress have power to regulate commerce, they have the right, exclusively of prohibiting the entry of such persons as are concerned in navigation, and those not prohibited by Congress, cannot be prohibited by the States.”<sup>27</sup> Hunt argued because the Negro Seamen’s Act was a police regulation, the prisoner Henry Elksion was held in prison under a constitutional law of the state of South Carolina. State police powers under the tenth amendment were superior to the federal government’s power to regulate commerce.

Justice William Johnson, a native of Charleston, issued his opinion for the case *Elkison vs Deliesseline* on August 7<sup>th</sup> 1823. He ruled the Negro Seamen’s Act of 1822 unconstitutional and in violation of United States treaties with foreign nations but that he was not empowered to issue the writ of habeas corpus to free the sailor. Justice Johnson said he, “Felt confident that the act had been passed hastily and without due consideration; and knowing the unfavorable feeling

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<sup>24</sup> Hunt, Benjamin Faneuil, Henry Elkison, Francis Gottier Deliesseline, and United States Circuit Court, *The argument of Benj. Faneuil Hunt*, (1823), 7.

<sup>25</sup> South Carolina General Assembly House of Representatives, *Journal of the House of Representatives*, (1844), 64–73.

<sup>26</sup> Hunt, *The argument of Benj. Faneuil Hunt*, 7.

<sup>27</sup> Hunt, *The argument of Benj. Faneuil Hunt*, 12.

that it was calculated to excite abroad.”<sup>28</sup> Johnson argued, “In order to sustain this law, the state must also possess a Power paramount to the Treaty-Making Power of the United States, expressly declared to be a part of the supreme legislative power of the land. For, the seizure of this man, on board a British ship, is an express violation of the commercial convention with Great Britain of 1815.”<sup>29</sup> He and others believed that individual states did not have the power to make laws that clashed with federal law.

After Justice Johnson gave his opinion, the citizens of Charleston were outraged, especially planters, politicians, and members of the South Carolina Association. The Association made sure the Negro Seamen’s Act was still enforced despite Justice Johnson’s ruling. Shortly after the ruling, Isaac E. Holmes, who was the South Carolina Association’s solicitor, and legislator Robert Turnbull, the author of the Negro Seamen’s Act of 1822, jointly wrote more than a dozen articles collectively known as the *Caroliniensis papers*. Over the next two months these articles were published in the *Charleston Mercury*, attacking Justice Johnson’s ruling and Henry Elkison’s claim of British citizenship.<sup>30</sup> Holmes said, “If South Carolina was deprived of the right of regulating her colored population it required not the spirit of prophesy to foretell the result, and that, rather than submit to the destruction of the state, I would prefer the dissolution of the union.”<sup>31</sup>

Within the next few years Georgia, North Carolina, Louisiana, Florida, Alabama, Mississippi, and Texas joined South Carolina and passed laws that imprisoned free black mariners upon their arrival in port.<sup>32</sup> In response to this bevy of seamen laws, northern states

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<sup>28</sup> Johnson, *The opinion of the Hon. William Johnson*, 3.

<sup>29</sup> Johnson, *The opinion of the Hon. William Johnson*, 9.

<sup>30</sup> January, *The South Carolina Association*, 191–201.

<sup>31</sup> I.E. Holmes, “South Carolina Law,” *Niles’ Weekly Register* (20 Sep. 1823): 47.

<sup>32</sup> Schoeppner, “Peculiar Quarantines,” 559–586.

tried to get the Supreme Court to test South Carolina's Negro Seamen's Act. They believed the Supreme Court would rule it unconstitutional and would strike down seamen laws in South Carolina and elsewhere. Such a case never occurred because state officials such as South Carolina's were able to block cases from reaching the Supreme Court.<sup>33</sup>

In early 1843, a petition was signed by more than 150 residents of Boston and published in *The Liberator* arguing against the imprisonment of free black American sailors in the south. This report argued that experienced sailors were in high demand and most of the time northern vessels traveling south were compelled to take on black crewmen. Sea captains employed blacks as firemen, laborers, stewards, and cooks. The petition claimed that article four section two of the United States Constitution gave residents of Massachusetts the same rights in southern states as they would have in Massachusetts. Therefore, South Carolina did not have the right to strip free black sailors of their rights and imprison them upon arrival in Charleston.<sup>34</sup> South Carolina recognized that right of Massachusetts to "elevate the descendants of the African race to the rank or status of free white persons... within her *own* limits" but denied that Massachusetts had "the right to require us to extend to such of them as may enter *our* limits."<sup>35</sup>

In November of 1843, John Jones a free black sailor was aboard the British ship *Higginson* and upon its arrival in Charleston was imprisoned. Jones was forced to work while imprisoned and when he refused he was severely beaten for not obeying the orders of the guards.<sup>36</sup> The South Carolina Association quickly stepped in and conducted an investigation that ultimately blamed the prisoner for not obeying the guard's orders. The Association submitted its

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<sup>33</sup> Wong, "Neither Fugitive nor Free," 111-141.

<sup>34</sup> "Free Colored Seamen of the United States," *The Liberator*, February 17, 1843

<sup>35</sup> "Massachusetts a Bond-Slave," *Liberator* 13 Dec. 1844: 198.

<sup>36</sup> Alan F. January, *The South Carolina Association: An Agency for Race Control in Antebellum Charleston*, *South Carolina Historical Society*, 1977, 191-201.

report to the state's attorney general and petitioned that imprisoned black seamen be separated from the other blacks in the jail.<sup>37</sup> This incident angered English authorities and residents of the northern states. Anti-slavery law makers in Massachusetts saw the Jones situation as a possible opportunity to challenge the South Carolina Negro Seamen's Act in the Supreme Court.

Massachusetts sent judge Samuel Hoar to Charleston in November of 1844 to investigate Jones's incarceration and subsequent beating. Hoar would act as an agent of Massachusetts with the single job of bringing the case to the Supreme Court to challenge the Seamen's Act.<sup>38</sup> When Mr. Hoar arrived in Charleston, he notified South Carolina's governor James Hammond of his motives and reason for being in Charleston.

Governor Hammond was appalled and notified the legislature, which voted 117-1 on December 5 1844, to expel Mr. Hoar from the State.<sup>39</sup> The opinion of the legislature was that Massachusetts had "sent an agent to reside in the midst of us, whose avowed object is to defeat a police regulation essential to our peace. This agent comes here not as a citizen of the United States, but as the emissary of a Foreign Government, hostile to our domestic institutions, and with the sole purpose of subverting our internal police."<sup>40</sup> However, the South Carolina assembly was not the only body that wanted Hoar kicked out of Charleston. Upon learning of his motives, the Charleston hotel where Mr. Hoar was lodging refused to allow him to continue staying there. An angry mob gathered outside of the hotel and threatened Mr. Hoar with violence if he did not leave the state. In fear of a national condemnation on the state of South Carolina if Mr. Hoar was physically harmed, the governor ordered the Charleston sheriff to escort Hoar to a steamboat

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<sup>37</sup> Ibid

<sup>38</sup> "The Hornel's Nest," *Morning News*, December 14, 1844

<sup>39</sup> "South Carolina General Assembly House of Representatives," *Journal of the House of Representatives*, 1844, 64-73.

<sup>40</sup> "South Carolina General Assembly House of Representatives," *Journal of the House of Representatives*, 1844, 64-73.

headed north to make sure he departed Charleston for his own safety and did not continue his mission.<sup>41</sup>

Individuals who lived in free states, especially in Massachusetts, were horrified to learn Samuel Hoar had been expelled from South Carolina by the Legislature and ran out of Charleston by an angry mob. In their eyes, Mr. Hoar was sent to Charleston, as an ambassador from Massachusetts and the treatment he received was a disgrace.<sup>42</sup> On December 26, 1844 the *Boston Post* said, “The result of Mr. Hoar’s communication was a testy order of the Legislature of South Carolina for his expulsion; and our ambassador has been driven with indignity out of the territory; and the question now arises, what must Massachusetts do to vindicate her insulted honor? An apology or war would be the only alternatives between independent nations.”<sup>43</sup> Under the United States Constitution, however, Massachusetts was not allowed to declare war on South Carolina, therefore Mr. Hoar’s expulsion only created an agitated wound between the states.

The Negro Seamen’s Act would be effectively enforced in South Carolina until the Civil War with the help of the South Carolina Association and the state Legislature. South Carolinians felt the Seamen’s Act was one of the most important laws and a necessary police regulation that was vital to their own protection and necessary in order to preserve their way of life. However, times were quickly changing and industrialization was rising quickly. Most countries had outlawed slavery by the mid 1800s and in the northern states the abolition movement was gaining large amounts of recognition. With abolitionists demanding for slaves to be freed immediately, the southern states were forced to continuously defend the institution of slavery as

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<sup>41</sup> “Mr. Hoar's Expulsion,” *The Farmers' Cabinet*, December 26, 1844

<sup>42</sup> “Statement of the Hon. Samuel Hoar, The Agent of the State of Massachusetts to South Carolina,” *The Liberator*, January 17, 1845

<sup>43</sup> “The Mission of Mr. Hoar to South Carolina, and the Position of the Two States.” *The Boston Post*. December 26, 1844, 4.

well as tighten their grip. South Carolinians were passing strict regulations to hold on to the only way of life they knew and to protect themselves from a violent revolt. Northern states and foreign countries whose black seamen were being temporarily imprisoned in South Carolina were fed up with the single state's refusal to compromise. They made multiple attempts to get the South Carolina law removed, but were unsuccessful. The hatred and anger built as a result of this law would never be forgotten. Thus, The Negro Seamen's Act was just one of many disagreements between South Carolina and the northern states that would ultimately lead to the Civil War.

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