IX-X

A STUDY OF SLAVERY IN NEW JERSEY

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IX-X

A STUDY OF SLAVERY IN NEW JERSEY

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INTRODUCTION.

An accurate and thorough knowledge of slavery as it developed in the United States can best be gained by a comparative study of the institution as it has existed in the various States. Preparatory to such a study, the experience of each of these commonwealths needs to be investigated separately. This has been done in several instances very satisfactorily. The writer has aimed to follow lines of investigation already opened, and has pursued the history of slavery in New Jersey, his native State.

New Jersey history is conveniently studied in three periods: the period of the Proprietary Colony, 1664–1702; the period of the Province of the Crown, 1702–1776; and the period of the State. These divisions have not been adopted in the plan of this monograph, an arrangement by subject appearing more desirable; but it is hoped that they have been sufficiently recognized throughout the paper. In general, in the Proprietary Colony we find the early beginnings of slavery; in the royal Colony, a steady increase in the number of slaves, and special forms of trial and punishment for slaves prescribed in the criminal law. This was also the period of a strong abolition movement among the Friends, ending in 1776 with the denial by Friends of the right of membership in their Society to slaveholders. In the State the anti-slavery movement, largely under the leadership of the abolition societies, grew to greater and greater strength. Its influence showed itself in practical ways in the support given to negroes before the courts, in the extinction of the slave trade, and in the passage of the gradual abolition law of 1804.

The writer takes this opportunity to express his thanks for many courtesies received in the use of the New Jersey State Library at

Trenton, the New York Historical Society Library and the Lenox Library at New York, the Bergen County Records at Hackensack, and particularly to F.W. Ricord, Esq., Librarian of the New Jersey Historical Society, for full and free access to its collections. The writer wishes also to recognize most gratefully his obligation, to Dr. Bernard C. Steiner for many valuable suggestions as to the method of investigation, and to Dr. Jeffrey R. Brackett for very helpful criticism of the manuscript.

A STUDY OF SLAVERY IN NEW JERSEY.

CHAPTER I.

The Increase and Decline of Slavery.

In nearly all of the English Colonies in America the institution of slavery was recognized and accepted by both government and colonists from the earliest period of settlement. In New Jersey the relation of master and slave had legal recognition at the very beginning of the Colony's political existence. The earliest constitution, the "Concessions"[1] from Lord Berkeley and Sir George Carteret in 1664, specifies slaves as possible members of the settler's family.

By the "Concessions" the Lords Proprietors granted to every colonist that should go out with the first governor seventy-five acres of land for every slave, to every settler before January 1, 1665, sixty acres for every slave, to every settler in the year following forty-five acres for every slave, and to every settler in the third year thirty acres for every slave. For the colonist's own person and for every able-bodied servant other portions of land were given, and all, according to the text of the instrument, "that the planting of

[1] "The concessions and agreement of the Lords Proprietors of the province of New-Caesarea or New Jersey, to and with all and every of the adventurers, and all such as shall plant there." Leaming and Spicer, *Grants, Concessions,* etc., pp. 20–23.

the said province may be more speedily promoted." Some have thought to see in these grants an unworthy readiness to serve the interest of the Duke of York, President of the Royal African Company.[1] That the desire of the Lords Proprietors was anything different from that stated, namely, the rapid development of the Province, I have found no evidence to prove. To what extent slaves were actually imported even is uncertain.

The earliest legislation in New Jersey bearing on the subject of slavery is a provision in 1668 that, if "any man shall wilfully or forcibly steal away any mankind, he shall be put to death."[2] This provision constituted the sixth of the "Capital Laws" passed by the General Assembly at Elizabeth-Town.[3] It, therefore, merely formed a part of the general criminal code and was intended for the protection of persons of white race only. Another reference to slavery of a similar character is found in the "Fundamental Laws" agreed upon by the Proprietors and settlers of West Jersey in 1676. A chapter designed to secure publicity in judicial proceedings concludes with the declaration "that all and every person and persons inhabiting the said Province, shall, as far as in us lies, be free from oppression and slavery."[4]

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[1] Bancroft, *History of U. S.*, 9th ed., Vol. II, p. 316, refers to the Proprietors as, in this action "more true to the prince than to humanity." Whitehead, *East Jersey Under the Proprietary Governments*, maintains strongly that Bancroft's expression is not warranted by the evidence.

[2] Leaming and Spicer, p. 79.

[3] The provision when reënacted seven years later has the same position, L. and S., p. 105.

[4] Leaming and Spicer, p. 398.

That slavery was an institution which the dwellers about the Hudson and Delaware recognized and had some acquaintance with, is shown by the action of a Council at New York in 1669. A certain Coningsmarke, a Swede, popularly known as "the long Finne," having been convicted of stirring up an insurrection in Delaware, as part of his punishment was sentenced to be sent to "Barbadoes or some other remote plantation to be sold." After having been kept prisoner in the "Stadt-house at York" for a year, the long Finne was duly transported for sale to Barbadoes. Smith, S., *History of New Jersey*, pp. 53, 54.

The earliest legislation implying the actual presence of slaves in the Province is an enactment in 1675 against transporting, harboring, or entertaining apprentices, servants or slaves.[1] From that time on laws having reference to slavery become more and more frequent.

In general, in the Proprietary Colony (1664–1702) slaves were regarded by the law very much as were apprentices and servants. In the "Concessions" and in the earlier legislation either slaves are treated in the same way as "weaker servants,"[2] or slaves, apprentices and servants are treated as forming one class.[3] Gradually there were established special regulations for the government of slaves, until toward the end of this period we find special punishments and a special form of trial.

To what extent slave labor was employed at this time it is difficult to estimate. That slaves were an important element in the economic life of the Colony seems probable in view of the amount of legislation relating to slavery. Mr. Snell says that the earliest recorded instance of the holding of negro slaves in New Jersey is that of "Col. Richard Morris of Shrewsbury, who as early as 1680 had sixty or more slaves about his mill and plantation." Mr. Snell thinks that by 1690 nearly all the inhabitants of northern New Jersey had slaves.[4]

Indian Slavery.

In New Jersey, as in many of the other Colonies, Indians were held as slaves from a very early period. I have found no evidence from which to determine in what year Indian slavery first existed, or what proportions it ever actually attained. That there were Indian slaves in the Province as

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[1] Leaming and Spicer, p. 109.

[2] L. and S., pp. 20–23, *Concessions of the Lords Proprietors.*

[3] *Laws of* 1675 and 1682. L. and S., pp. 105 and 238.

[4] Snell, J. P., *History of Sussex and Warren Counties, N. J.*, p. 76.

early as 1682 there is sufficient proof. The preamble to an "Act against trading with negro slaves" passed at Elizabeth-Town in that year reads: "Whereas, it is found by daily experience that negro and Indian slaves, or servants under pretence of trade, or liberty to traffic, do frequently steal from their masters," etc.[1] Throughout the Act in the several places where slaves are spoken of, the designation is "negro or Indian slave" or a similar term. In many of the Colonial laws Indian slavery is recognized by the use of the enumerating phrase "negro, Indian and mulatto slaves" where slaves are referred to.[2] The advertisements for fugitives, found in the newspapers of the early part of the eighteenth century, show pretty clearly the actual presence of Indian slaves.[3] Slaves of mixed race, half negro and half Indian, are also mentioned.[4]

That Indians might be slaves under the laws of New Jersey was established judicially by a decision of the State Supreme Court in 1797.[5] The case was one of *habeas corpus* to bring up the body of Rose, an Indian woman, claimed by the defendant as a slave. It was proved that Rose's mother, an Indian woman, had been purchased as a slave and had always been considered as such. The Chief Justice, delivering the

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[1] L. and S., p. 254.

[2] Allinson, pp. 5, 31, 307, 315; Nevill, I, pp. 18, 242; *N. J. Archives*, III, 473; XII, 516–520; XV, 30, 351. Also in the *State Laws of* 1798 and 1820. Paterson, p. 307, and *N. J. Statutes*, 44 ses., *Statutes*, 74. The expressions "negro slaves or others," "negroes or other slaves" are found in *Acts of* 1682, 1695 and 1710. L. and S., pp. 237, 257; *N. J. Archives*, XIII, p. 439.

[3] Fugitive Indian men, apparently slaves, are advertised 1716 and 1720. Boston *News-Letter*, July 23, 1716; *American Weekly Mercury*, Sept. 28, 1721; in *N. J. A.*, XI, pp. 41 and 58.

[4] In 1734, 1741 and 1747. *Am. Wk. Mer.*, Oct. 31, 1734; N. Y. *Wk. Journal*, May 11, 1741; Penn. *Gaz.*, Oct. 1, 1747; in *N. J. A.*, XI, 393; XII, 91, 403. One of these half-breed slaves is mentioned as the child of an Indian woman. *N. J. A.*, XII, 403.

[5] *N. J. Law Reports*, VI, 455–459 (1st. Halsted). The State *vs.* Van-Waggoner.

opinion of the court, said: "They [the Indians] have been so long recognized as slaves in our law, that it would be as great a violation of the rights of property to establish a contrary doctrine at the present day, as it would be in the case of Africans; and as useless to investigate the manner in which they originally lost their freedom."[1]

The Royal Governors.

The plan for the administration of New Jersey outlined in the instructions from Queen Anne to the first royal governor, Lord Cornbury, included the regulation of slavery as existing in the Province and the development of an import trade in slaves from Africa. Lord Cornbury was directed to encourage particularly the Royal African Company of England, along with other enterprisers that might bring trade, or otherwise "contribute to the advantage" of the Colony. The Queen was "willing to recommend" to the Royal African Company that the Province "may have a constant and sufficient supply of merchantable negroes, at moderate rates," and the Governor, on his part, was instructed to "take especial care" to secure prompt payment for the same. He was to guard against encroachments on the trading privileges of the Royal African Company by inhabitants of New Jersey. He was to report annually to the Commissioners for Trade and Plantations the number of negroes imported, and the prices that they brought. The "conversion of negroes and Indians to the Christian religion" was even treated of. The consideration of the best means to encourage this pious movement was commended to the attention of the Governor, assisted by his Council and the Assembly.[2]

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[1] It was decided that the slavery of this Indian woman had been sufficiently proved, and she was remanded to the custody of her master.

[2] L. and S., pp. 640, 642. Instructions from Queen Anne to Lord Cornbury.

The Slave Trade.

In the action of the Colony on the subject of the expediency of restricting the importation of slaves, we find some indication of the position which slavery attained among the institutions of the Province, and of the popular feeling as to the desirability of the use of slave labor. The question of an import duty was one upon which at times the views of Assembly, Council, and the Lords of Trade did not agree. Queen Anne's instructions to Lord Cornbury show clearly a desire to encourage the importation of slaves. The Governor was specifically directed to report annually to the home government the number and value of the slaves that the Province "was yearly supplied with." The earliest statute on the subject was in 1714, when a duty of ten pounds was laid on every slave imported for sale.[1] The legislation was called forth by the desire to stimulate the introduction of white servants that the Colony might become better populated.[2]

To what extent slaves were actually imported at this period is largely a matter of conjecture. A report from the custom house at Perth Amboy in 1726 gives "an account of what negroes appears by the custom house books to be imported into the eastern division of this Province" since 1698.[3] The report states that, from 1698 to 1717 none were imported, and from 1718 to 1726 only 115. It is hardly probably that this testimony gives an accurate indication of the real amount of slave importation. Many negroes must have been brought into the Province in such a manner as not to appear on the books of the custom house at Perth Amboy. It certainly would seem strange that it should be thought desirable in

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[1] Allinson, S., *Acts of Gen. Assembly* (1702–1776), p. 31; *N. J. A.*, XIII, pp. 516–520; *Journal of Gov. and Council.*

This law remained in force for seven years from June 1, 1714.

[2] A similar law in Pennsylvania had been observed to have the desired effect.

[3] *N. J. A.*, V, p. 152.

1714 to pass an act laying a duty upon slaves imported, if actually, there had been little or no importation for fifteen years previously.[1]

The law of 1714 was permitted to expire in 1721, and for nearly fifty years there was no duty upon the importation of negroes, although during that period bills to establish such a duty were at several times before the governing houses.[2] In 1744, a bill plainly intending an entire prohibition of the importation of slaves from abroad was rejected by the Provincial Council.[3] That body declared that even the mere discouragement of importation was undesirable. The Council maintained that the Colony at that time had great need of laborers. An expedition to the West Indies had drawn off from the Province many inhabitants. The privateering profession had attracted many others. For these causes, wages had risen so high that "farmers, trading-men, and tradesmen" only with great difficulty were able to carry on their business. The Council expected little relief from Ireland; for, since the establishment of the linen manufacture on that island, there had been little emigration. The Silesian war in Europe allowed slender hope of help from Germany or England. Under the existing conditions, encouragement of slave importation rather

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[1] A similar inference may be drawn from information afforded by an extract from the minutes of the Friends' Yearly Meeting held at Burlington in 1716, given by Mr. J. W. Dally. From this extract we learn that certain Friends at a Quarterly Meeting at Shrewsbury had shown great solicitude for the discouragement of the importation of slaves, although the question had received consideration at the previous Yearly Meeting. Dally, *Woodbridge and Vicinity*, p. 73.

[2] In 1739, a bill was passed by the Assembly, but rejected by the Council. The Assembly and Council were just then at odds on the subject of governmental appropriations. Possibly the strained relations may have influenced the action on this bill. See *Assem. Jour.*, Dec. 5, 1738, Feb. 16, 1739, and *N. J. A.*, XV, 30, 31, 45, 50 (*Jour. of Gov. and Council*).

[3] The bill imposed a duty of ten pounds upon all slaves imported from the West Indies, and five pounds upon all from Africa. *N. J. A.*, VI, 219, 232, and XV, 351, 384, 385 (*Jour. of Provin. Council*); *Assem. Jour.*, Oct. 9 to Nov. 7, 1744.

than prohibition of it, was needed, in the opinion of the Council. Again, in 1761, the question of a duty was under discussion. The free importation of negroes had then become a source of inconvenience. A large number of slaves were "landed in this Province every year in order to be run into New York and Pennsylvania" where duties had been established. Furthermore, New Jersey had become overstocked with negroes. In response to two petitions from a large number of the inhabitants of the Colony, praying for a duty on all negro slaves imported, a bill for that purpose was introduced into the Assembly.[1] Governor Hardy, however, informed the House that his instructions would not permit him to assent to the bill,[2] and it was abandoned. At the request of the Assembly, the Governor laid the matter before the Lords of Trade, and besought them for some relief.[3] Less than a year later Governor Hardy assented to a bill[4] imposing import duties; but insisted upon a suspending clause that the act should not not take effect until approved by the King. The Lords of Trade, because of technical faults in the bill, did not lay it before the King; but, at the same time, they disclaimed any opposition to the policy of an import duty.[5]

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[1] The Assembly voted that the duties to be provided for in this bill should not be so high as to amount to a prohibition (*Assem. Jour.*, Dec. 3, 1761).

[2] He was forbidden to give his "assent to any act imposing duties upon negroes imported into this Province, payable by the importer; or upon any slaves exported, that have not been sold in the Province, and continued there for the space of twelve months" (*Assem. Jour.*, Dec. 4, 1761).

[3] *N. J. A.*, IX, 345. Letter from Gov. Hardy to the Lords of Trade. *Assem. Jour.*, Nov. 30 to Dec. 8, 1761.

[4] Sept. 25, 1762. The act laid a duty of forty shillings in the Eastern and six pounds in the Western division of the Province. The reason for the discrimination was that Pennsylvania had a duty of ten pounds, while New York charged only two pounds. Allinson, p. 253; *N. J. A.*, IX, 383 (Letter from Gov. Hardy to the Lords of Trade). XVII, 333, 338–385, (*Jour. of Council*); *Assem. Jour.*, Sept. 23–25, 1762.

[5] *N. J. A.*, IX, 447 (Letter from Lords of Trade to Gov. Franklin). XVII, 385; see also IX, 444.

Finally, in 1767, an act limited to two years was passed;[1] and at its expiration a more comprehensive law followed which was in force during the remainder of the Colonial period.[2] The preamble to the law of 1769 states that the act was passed because several of the neighboring Colonies had found duties upon the importation of negroes to be beneficial in the introduction of sober, industrious foreigners as settlers and in promoting a spirit of industry among the inhabitants in general, and in order that those persons who chose to purchase slaves might "contribute some equitable proportion of the public burdens." It was enacted that the purchaser of a slave which had not been in the Colony a year, or for which the duty had not yet been paid, should pay to the county collector the sum of fifteen pounds.[3]

In 1773, several petitions were presented to the Assembly praying that the further importation of slaves might be prohibited and that manumission might be made more easy. In response, two bills were introduced for the above purposes, respectively. The bill regarding manumission, however, seems to have aroused such interest as to have overshadowed entirely the bill for laying a further duty on the purchasers of slaves; for nothing is heard of the latter beyond its second reading and recommitment.[4]

In the early years of the royal Colony, the home government is inclined to encourage the importation of slaves. The Assembly favors restriction of importation, apparently on purely economic grounds, and succeeds in passing a law to that end. For nearly fifty years the attempts of the Assembly to carry out its policy are defeated, at first by the Council,

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[1] This law abandoned the awkward discrimination between East and West Jersey of the bill of 1762, and imposed a uniform duty for the whole Colony. Allinson, pp. 300 and 353. Whitehead, *Perth Amboy*, p. 320.

[2] This act was to be in force for ten years.

[3] Any purchase made upon the waters surrounding the Province was considered a purchase within the Province (Allinson, p. 315).

[4] *Assem. Jour.*, Nov. 30 to Dec. 13, 1773.

then by the opposition of the Governor in accordance with his official instructions, then by legal technicality. Finally, the resistance is overcome, and a law laying a duty is passed. Economic motives are again given as the cause of the legislation; but it is probable that the persistence of the Assembly was due to the influence of the Friends,[1] among whom a strong abolition movement had been going on.

Late in the year 1785, a petition from a great number of the inhabitants of the State was presented to the Assembly, praying for legislation to secure the gradual abolition of slavery and to prevent the importation of slaves. In response to this petition, an act was passed early in 1786[2] inflicting a penalty of fifty pounds for bringing slaves into New Jersey that had been imported from Africa since 1776, and a penalty of twenty pounds for all others imported.[3] Foreigners, and others having only a temporary residence, might bring in their slaves without duty; but might not dispose of them in the State. The legislation against the slave trade met with in the Colonial period was entered upon from considerations of economic expediency, if we are to judge from the explanations of the legislators. In the act of 1786 we find legal recognition of the ethical side of the question. The preamble declares that the "principles of justice and humanity require that the barbarous custom of bringing the unoffending Africans from their native country and connections into a state of slavery" be discountenanced.[4] Further petitions[5] for the suppression of the negro trade and the gradual abolition of

[1] See *N. J. A.*, IX, 346. Note by W. Nelson (editor).

Mr. Nelson thinks that the law of 1769 was caused by the anti-slavery movement among the Friends.

[2] *Assem. Jour.*, Nov. 1, 1785, to March 2, 1786. *Acts of Assem.*

[3] Persons coming to settle in New Jersey must pay duty on such of their slaves as had been imported from Africa since 1776; but were not charged for the others.

[4] Even this act continues, "and sound policy also requires," that importation be prohibited, in order that white labor may be protected.

[5] *Assem. Jour.*, Nov. 6–10, 1788.

slavery, one from the Society of Friends and another from certain inhabitants of the town of Princeton, led the legislature in 1788 to pass a supplement to the law of 1786. This supplement[1] carried the non-importation principle still farther and inflicted a forfeiture of vessels, appurtenances and cargo upon those who fitted out ships for the slave trade. Masters of vessels who resisted the persons attempting to seize were fined fifty pounds. Not only was the import trade in slaves forbidden, but the export trade also. No slave that had resided within the State for the year past could be removed out of the State with the intention of changing his legal residence, without his consent, or that of his parents. The prohibition did not apply to persons emigrating to settle in a neighboring State and taking their slaves with them.[2]

The abolition law of 1804 and the increasing strength of the public sentiment against slavery inclined masters to send their negroes out of the State, and a further law forbidding exportation was passed in 1812.[3] Again, in 1818,[4] in answer to a memorial from a number of the inhabitants of Middlesex County, praying for a more efficient law to prevent the kidnapping of blacks and carrying them out of the State, an act was passed inflicting heavy penalties, both of fine and imprisonment for exporting, contrary to law, slaves or servants of

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[1] Acts of 13th Gen. Assem., *Assem. Jour.*, Nov. 6–25, 1788.

[2] These several provisions were virtually re-enacted ten years later in the comprehensive slave law of 1798, excepting that the money penalties inflicted were, on the whole, made lighter. Paterson, W., *Laws of N. J.*, revised 1800, p. 307.

The law was not so construed by the courts as to prevent an immigrant, bringing in slaves among his dependents, from ever and under all circumstances disposing of such slaves. An instance in 1807 is recorded, when a slave imported conformably to law was sold from prison after two years residence within the State. The State *vs.* Quick, 1st Pennington, p. 393.

[3] 36 Ses., 2 sit., *Statutes*, 15. *Assem. Jour.*, Jan. 10–29, 1812; also Nov. 8, 1809.

[4] *Assem. Jour.*, Oct. 28 to Nov. 4, 1818. 43 Ses., *Statutes*, 3; also *Assem. Jour.*, Jan. 19–30, 1818.

color for life or years.[1] Any person who had resided within the State for five years, desiring to remove from it permanently might take with him any slave that had been his property for the five years preceding the time of removal, providing that the slave was of full age and had consented to the removal. These facts must be proven before the Court of Common Pleas, and a license to carry the slave out of the State be given by the court. Any master of a vessel receiving and carrying out of the State any slave for whose exportation a license had not been obtained was liable to a heavy fine and imprisonment. An inhabitant of New Jersey going on a journey to any part of the United States might take his slave with him; but if the slave was not brought back the master became liable to a heavy penalty unless he could prove that it had been impossible for the slave to return. These provisions mark the final suppression of the slave trade in New Jersey.

The Anti-Slavery Movement.

We find during the latter part of the Colonial period growing recognition of the iniquity of human slavery. It is among the Quaker inhabitants that this moral development is observed. As early as 1696,[2] the Quakers of New Jersey and Pennsylvania voted in their Yearly Meeting to recommend to Friends to cease from further importation of slaves. A cautious disapproval of slavery is again seen in the action of the Yearly Meeting in 1716. Out of consideration for those Friends whose consciences made them opposed to slavery, "it is desired," the minutes read, "that Friends generally do as much as may be to avoid buying such negroes as shall be hereafter brought in, rather than offend any Friends who are against

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[1] All the legislation on this subject reached its final and permanent form in the compiled Statute of 1820 (44 Ses., *Statutes*, 74).

[2] Gordon, *History of N. J.*, p. 57.

it," . . . "yet, this is only caution, not censure."[1] These suggestions seem to have been received favorably and to have been put into practice. At a monthly meeting held at Woodbridge in 1738, it was stated that, not for several years had any slaves been imported by a Friend, or had any Friend bought negroes that had been imported.[2]

This is the period of the life and work of John Woolman (1720–1772), one of the earliest and noblest of those who in this country labored for the abolition of human slavery. But a poor, unlearned tailor of West-Jersey, his simplicity and pure, universal charity gave him far-reaching influence among the Friends. These qualities, as shown in his "Journal," together with the exquisite style of his writing, have called forth the admiration of literary circles. He travelled about as a minister among the Friends North and South, preaching and urging his associates to do away with slavery. In 1754, he published "Some Considerations on the Keeping of Negroes," in which he contends that slaveholding is contrary to Scripture.[3]

In 1758, the Philadelphia Yearly Meeting, largely as the result of a moving appeal by Woolman, voted that the Christian injunction to do to others as we would that others should do to us, "should induce Friends who held slaves 'to set them at liberty, making a Christian provision for them.'"[4] In succeeding years this Meeting expressed itself more and more resolutely as opposed to slavery. At one stage in the movement, New Jersey Friends who inclined to free their slaves, were deterred from so doing because of the law requiring masters manumitting slaves to enter into security to maintain the negroes in case they have need of relief. These masters compromised the matter by retaining in their possession young

[1] Extract given by Mr. J. W. Dally in his *Woodbridge and Vicinity*, p. 73.
[2] *Ibid.*
[3] Whittier, J. G., John Woolman's *Journal, Introduction;* also *N. J. Ar.*, IX, 346. Note by W. Nelson (ed.).
[4] Whittier's Introduction to Woolman's *Journal*, p. 19.

negroes and forcing them to work without wages until they reached the age of thirty, while at the same time declining to hold any slaves for life.[1] The movement proceeded by moderate advances. Mr. Dally states that a report was made to the Monthly Meeting at Plainfield in August, 1774, showing "that at this time only one negro, 'fit for freedom' within the jurisdiction of the Society, remained a slave."[2] Finally, in 1776, the Philadelphia Yearly Meeting directed the subordinate meetings to "deny the right of membership to such as persisted in holding their fellowmen as property."[3]

The persistent effort for the restriction of slave importation culminating in the law of 1769 was, no doubt, largely due to the growing anti-slavery sentiment among the Friends.[4] Again, in the fall of 1773, no less than eight petitions were presented to the Assembly from inhabitants of six different counties,[5] all setting forth the evils arising from human slavery, and praying for an alteration of the laws on the subject. The reforms desired were chiefly the prohibition of importation and increased freedom of manumission. Of the two bills introduced for these purposes, the one regulating manumission alone excited much interest; the other was soon dropped. A counter-petition against the manumission bill was presented, and, in view of the attention called forth, it was decided to have the bill printed for the information of the public and defer action until the next session; after which nothing further was done.[6]

A petition of strong anti-slavery character, praying the Legislature to "pass an act to set free all the slaves now in the Colony," was presented to the House in 1775 by fifty-two

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[1] Woolman's *Journal*, p. 224.
[2] Dally, *Woodbridge*, p. 218.
[3] Whittier's *Introduction*, p. 23.
[4] *Supra*, p. 20.
[5] The counties were Burlington, Monmouth, Cumberland, Essex, Middlesex and Hunterdon.
[6] *Assem. Jour.*, Nov. 19, 1773, to Feb. 16, 1774; also Jan. 28 to Feb. 7, 1775.

inhabitants of Chesterfield in Burlington County.[1] In 1778, Governor Livingston asked the Assembly to make provision for the manumision of the slaves. The House thought that the times were too critical for the discussion of such a measure, and requested that the message be withdrawn. The Governor reluctantly consented, yet at the same time stating that he was determined, as far as his influence extended, "to push the matter till it is effected, being convinced that the practice is utterly inconsistent with the principles of Christianity and humanity; and in Americans who have almost idolized liberty, peculiarly odious and disgraceful."[2]

The New Jersey State Constitution, adopted in 1776,[3] contained no Bill of Rights. There was no provision ascribing natural rights to all persons. Although there is little doubt that the New Jersey courts would have been wholly opposed to construing such a provision as abolishing slavery; yet even if the courts had been so inclined, as happened in Massachusetts,[4] there was no opportunity for such a decision. The common law of England and the former statute law of the Colony were declared in force.

A society for promoting the abolition of slavery was formed in New Jersey as early as 1786.[5] A constitution adopted at Burlington in 1793[6] provides for an annual meeting of members from the whole State and for county meetings half-yearly. The preamble, after mentioning "life, liberty and the pursuit of happiness" as "universal rights of men," concludes with the statement, "we abhor that inconsiderate, illiberal, and

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[1] *Assem. Jour.*, Nov. 20, 1775.

[2] Bancroft, *Hist. of U. S.*, Vol. V., p. 411.

[3] Wilson, *Acts of State of N. J.* (1776–1783); also Poore's *Collection.*

[4] Winchendon *vs.* Hatfield, 4th Mass. Rep., 123.

[5] Williams, *Hist. of Negro Race in America*, p. 20.

[6] *N. J. Hist. Soc. Pamphlets*, Vol. VI.

The constitution adopted at Trenton in 1786 was frequently amended in succeeding years. The one agreed upon at Burlington in 1793 must have had some permanence, as it was printed and is now accessible.

interested policy which withholds those rights from an unfortunate and degraded class of our fellow creatures." The society was active and contained many able men. It was influential in obtaining the passage of laws for the gradual abolition of slavery,[1] and in securing before the courts the protection to slaves provided for in the statutes.[2] Its membership, however, in the early part of the present century, was not large. The president stated in 1804 that probably not more than 150 persons throughout the State were in active association with the society. The aims of the society at this period were moderate. The president, in an address in 1804, declared that it was not "to be wished, much less expected, that sudden and general emancipation should take place." He thought that the true policy was to "steadily pursue the best means of lessening, and by temperate steps, of finally extinguishing the evil."[3]

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[1] *Assem. Jour.*, Jan. 28, 1794, records a "Petition from Joseph Bloomfield, styling himself President of a Society for promoting the Abolition of Slavery," praying that some measures may be established by law to promote the abolition of slavery." See also Nov. 22, 1802.

[2] The supreme court would not require persons acting with this end, to pay costs. In The State *vs.* Frees, the court refused to compel the Salem Abolition Society, the prosecutor of the writ of *habeas corpus* for the negroes in the case, to pay costs. The Chief Justice said that in no case would such prosecutors be compelled to pay costs; that "it was a laudable and humane thing in any man or set of men to bring up the claims of those unfortunate people before the court for consideration." *N. J. Law Rep.*, I, 299 (Coxe).

[3] There were local societies also. In 1802 the "Trenton Association for promoting the Abolition of Slavery" published its constitution, in order to evince to the public "that no improper or impertinent motives produced our association; and that no illegal, unjust or dishonorable means will be employed to accomplish our objects."

The members, convinced of the iniquity of personal slavery, had associated themselves together to endeavor by all constitutional and lawful means to ameliorate, as far as lay within their power, the situation of slaves, "to encourage and promote the gradual abolition of slavery," "and to improve the condition of and afford all reasonable protection and assistance to the blacks, and other people of color, who may be among us."

A petition in 1785, praying for the gradual abolition of slavery and the suppression of further importation of slaves, from a great number of the inhabitants of the State, resulted in the law of 1786 against importation and providing for manumission without security. This law is the first that recognizes that any question of ethics is involved in the holding of slaves.[1] Similar petitions to the above, from the Society of Friends and from citizens of Princeton, led two years later to the supplementary law of 1788 enacting very stringent measures for the overthrow of the slave trade.[2] A petition praying for the abolition of slavery, from certain inhabitants of Essex and Morris counties, was received in the Assembly in 1790, and referred to a committee. The committee reported to the effect that the position of the slaves under the existing laws was very satisfactory; that, although it might be thought desirable to pass a law making slaves born in the future free at a certain age, for example, twenty-eight years, yet that, "from the state of society among us, the prevalence and progress of the principles of universal liberty, there is little reason to think there will be any slaves at all among us twenty-eight years hence, and that experience seems to show that precipitation in the matter may do more hurt than good, not only to the citizens of the State in general, but the slaves themselves."[3]

It was the "duty of the Acting Committee to carry into effect the resolves of the Association," "to give attention to all objects entitled to relief by the laws of the land," "to state their cases, by themselves or counsel, before the proper judicatures," etc.

Further, a Standing Committee of the Association had the following duties:

1. To superintend the morals and general conduct of the free blacks, and to give advice, instruction, protection and other friendly offices.

2. To superintend the instruction of children, and encourage them to good morals and habits of temperance and industry.

3. To place out children as apprentices.

4. To procure employment for men and women who are able to work, and to encourage them to bind themselves out to a trade. ("*True American*," March 2, 1802.)

[1] *Supra*, p. 18. [2] *Supra*, pp. 18 and 19.

[3] *Assem. Jour.*, May 24 and 26, 1790.

Notwithstanding the alluring optimism of the Assembly's committee anti-slavery petitions[1] continued to be presented to the House, and provisions to establish a system of gradual abolition were frequently before that body in the following years.[2] In the passage of the general slave law of 1798, a provision ordaining that all children born to slaves in the future should be free on attaining the age of twenty-eight years failed only by a very narrow majority.

In the year 1804, an act for the gradual abolition of slavery within the State was passed after the bill had run through two sessions of the legislature.[3] Every child born of a slave after the fourth of July of that year was to be free, but should remain the servant of the owner of the mother, as if bound out by the overseers of the poor, until the age of twenty-five years, if a male, and twenty-one years, if a female. The right to the services of such negro child was perfectly clear and free. It was assignable or transferable.[4] One person might be the owner of the mother and another have gained the right to the services of the child. Masters were compelled to file with the county clerk a certificate of the birth of every child of a slave.[5] This certificate was kept for future evidence of the age of the child. The owner of the mother must maintain the child for one year; after that period he might, by giving due notice,

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[1] *Assem. Jour.*, Oct. 24, Nov. 21, 1792; Jan. 28, Nov. 10, 1794.

[2] *Assem. Jour.*, Oct. 25, 1792; May 21, 1793; Feb. 4, 1794; Feb. 14, 1797; Jan. 19, March 8, 1798.

[3] 28 Ses., 2 sit., *Statutes* 251. Here, again, the bill was introduced in answer to a memorial from the New Jersey Abolition Society. The bill was published for the general information of the people before it was finally acted upon. *Assem. Jour.*, Nov. 22, 1802 to Feb. 15, 1804.

[4] This point was established by the Supreme Court in 1827. The Chief Justice declared that services of this character were a "species of property," and were "transferred from one citizen to another like other personal property." Ogden *vs.* Price, *N. J. Law Rep.*, IX, 211–217 (4th Halsted).

[5] The book *Black Births* of Bergen County, contains the certificates for that county. The descriptions are generally very brief, frequently giving nothing more than the name of the child. It seems remarkable that such records should have been sufficient to prove a man's freedom.

abandon it. Every negro child thus abandoned, like other poor children, was to be regarded as a pauper of the township or county, and be bound out to service by the overseers of the poor. This provision, allowing masters to refuse to maintain children born to their slaves, was the source of considerable fraud upon the treasury, and was the cause of many supplements and amendments[1] to the law of 1804 in succeeding years. Finally, seven years later the provision was repealed,[2] the reason given being "it appears that large sums of money have been drawn from the treasury by citizens of the State for maintaining abandoned black children, and that in some instances the money drawn for their maintenance amounts to more than they would have brought if sold for life."[3]

In 1844, a new constitution was adopted in New Jersey.[4] The first article was in the nature of a Bill of Rights, and the first section read as follows: "All men are by nature free and independent, and have certain natural and inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness." Some believed that this section abolished both slavery and that form of involuntary servitude in which children of slaves were held by the

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[1] 1806, 1808, 1809. 30 Ses., 2 sit., *Statutes*, 668; 33 Ses., 1 sit., *Statutes*, 112; 34 Ses., 1 sit., *Statutes*, 200.

[2] 1811. 35 Ses., 2 sit., *Statutes*, 313. This legislation also reaches its final form in the compiled law of 1820. 44 Ses., *Statutes*, 74.

[3] In 1806, the State Treasurer requested the "orders of the legislature with respect to payments demanded of him for supporting black children." His report the next year shows disbursements "for abandoned blacks" amounting to half as much as all other disbursements whatever. In 1809, the expenditure for abandoned blacks amounted to two-thirds of all other expenditure; the drafts upon the treasury for the support of blacks from the County of Bergen alone amounting to $7,033, out of a total State expenditure for blacks of $12,570. The Treasurer called the attention of the Assembly to these latter facts, and the House directed him "to suspend all further payments in all doubtful cases for the support of abandoned blacks." *Assem. Jour.*, Nov. 5, 1806; Nov. 2–21, 1809; also *Treas. Rep.*, *Assem. Jour.*, Nov. 13, 1807; Nov. 14, 1808; Nov. 8, 1809.

[4] Poore's *Collection*, p. 1314.

law of 1820. The ground for this belief was, doubtless, that remarkably liberal interpretation of a similar provision in the Massachusetts constitution of 1780, by which the Massachusetts courts decided slavery to have been abolished by that constitution.[1] The matter came up for adjudication before the New Jersey supreme court in 1845;[2] but that court did not follow the Massachusetts precedent. The court declared the section in question was a "general proposition, that men in their social state are free to adopt their own form of government and enact their own laws," "that in framing their laws, they have a right to consult their safety and happiness, whether in the protection of life and liberty, or the acquisition of property." The provision was not designed, the Justice said, to apply to "man in his private, individual or domestic capacity; or to define his individual rights or interfere with his domestic relations, or his individual condition." The court then held that the constitution of 1844 had not abolished slavery or affected the slave laws existing at the time of its adoption.[3]

Slavery was abolished by statute in New Jersey in the year 1846.[4] This action did not result in complete emancipation of the slaves. The abolition law simply substituted apprenticeship in place of slavery. By virtue of the act, and without the execution of any instrument of manumission, every slave became an apprentice, bound to service to his present owner, executors, or administrators, until discharged therefrom. How similar were the two conditions[5] is shown when we find many

[1] Mr. Moore says that this provision of the constitution of 1780 was "only a new edition of the 'glittering and sounding generalities' which prefaced the Body of Liberties in 1641;" yet the earlier instrument was never held to have abolished slavery. Moore, G. H., *Notes on the History and Slavery in Massachusetts*, p. 12.

[2] The State *vs.* Post. The State *vs.* Van Buren. *N. J. Law Rep.*, XX. 368–386 (Spencer).

[3] The case was carried up into the Court of Errors and Appeals, and the decision of the Supreme Court was confirmed. *N. J. Law Rep.*, XXI, 699.

[4] *Revised Statutes*, 382.

[5] The U. S. Census of 1850 reports 236 slaves in New Jersey, and the Census of 1860 reports 18 slaves. Evidently these must have been legally apprentices for life.

old provisions regarding slaves reproduced and reënacted for the government of the new apprentices created by the statute. Forms are established according to which apprentices may be legally discharged.[1] Penalties for enticing apprentices away or harboring them, or for misusing them, are provided. Apprentices are not to be carried out of the State, or sold to a non-resident. Yet this change of status represented a real improvement in the condition of the negro servant for life or years. The sale of an apprentice must be in writing and with the consent of the apprentice, expressed by his signature. An apprentice having a complaint against his master was granted the same remedy as that previously provided by law for apprentices and servants. Children born to negro apprentices were to be absolutely free from birth, and not subject to any manner of service whatsoever. They must be supported by the master until they attained the age of six years, after which they were to be bound out to service by the overseers of the poor.

New Jersey, as a State, showed also at times considerable interest in slavery in its larger aspect, as it affected general conditions in the United States. In January, 1820, the legislature passed resolutions against the admission of Missouri as a slave state.[2] Four years later resolutions were passed affirming, first, that in the opinion of the legislature, "a system of foreign colonization" represented a feasible plan by which might be effected "the entire emancipation of the slaves in our country;" second, that such an arrangement made convenient provision for the free blacks; third, that the evil of slavery being a national one "the duties and burdens of removing it" ought to be borne by the people and States of the Union. Copies of these resolutions were forwarded to the Governors of the several States, with the request that they lay the same before their respective legislatures, and to the New Jersey Senators and Representatives in Congress

[1] A new and interesting provision is that the apprentice shall not be discharged unless he desires to be.

[2] *Assem. Jour.*, Jan. 13 to 19, 1820.

asking their coöperation.[1] In 1847, the legislature resolved[2] that the Senators and Representatives in Congress from New Jersey be requested to use their best efforts to secure the exclusion forever of slavery or involuntary servitude from any territory thereafter to be annexed to the United States, except as a punishment for crime. Two years later similar resolutions[3] were passed condemning the further extension of slavery, and urging the speedy abolition of the slave trade within the District of Columbia.

The Extent of Slavery.

The use of slave labor was quite general in New Jersey during the period of the royal governors. From quotations from the census reports, given by Mr. Gordon,[4] we learn that there were 3,981 slaves in the Province in 1737, 4,606 slaves in 1745, and 11,423 in 1790.[5] Though the number of slaves was increasing constantly during this period, that increase did not keep pace with the growth of population. Slaves constituted 8.4 per cent. of the population in 1737, 7.5 per cent. in 1745, and 6.2 per cent. in 1790. In Perth Amboy, the port of entry for the eastern division of the Province, slaves were especially numerous. According to Mr. Whitehead, it

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[1] *Assem. Jour.*, Nov. 23 to Dec. 29, 1824, and 49 Ses., *Statutes*, 191.

[2] 71 Leg., 3 Ses., *Statutes*, 188. [3] 73 Leg., 5 Ses., *Statutes*, 334.

[4] Gordon, T. F., *Gazetteer of N. J.*, p. 29.

[5] Blake, *Ancient and Modern Slavery*, p. 388, says that in 1776 New Jersey contained 7,600 slaves. No authority for the statement is given. As the U. S. Census of 1790 reports 11,423 slaves in New Jersey, if Mr. Blake's figures are correct, there must have been an increase of 3,823 slaves between 1776 and 1790. That there was such a large increase seems to me very improbable, when we consider, first, that such an increase would be at a rate double that observed in the next decade; second, that the years of the war presumably were not years when the number of slaves increased rapidly. If the slave population increased at a uniform rate from 1745 to 1790 there would have been more than nine thousand slaves in the Colony in 1776.

was reported that in 1776 there was in the town only one house whose inmates were "served by hired free white domestics."[1] In other places the labor of families was also very commonly performed by slaves.

The maximum slave population in New Jersey given by the U. S. Census Reports is 12,422 in the year 1800. The next census shows a decrease to 10,851, in consequence of the abolition law of 1804. The number of slaves reported rapidly diminishes with each succeeding census until the last record in 1860 shows but eighteen slaves[2] in the State. At the beginning of the present century New Jersey had a larger slave population than any other State north of Maryland, except New York.[3] The coast counties from Sandy Hook to the northern boundary, and the Raritan Valley, were the regions containing the great majority of the slaves. The three great Quaker counties of Burlington, Gloucester, and Salem, containing 23 per cent. of the total State population, contained less than 3 per cent. of the slave population. The effect of the eighteenth century abolition agitation among the Friends is here clearly shown.[4]

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[1] Whitehead, *Perth Amboy*, p. 318.

[2] These must have been legally "apprentices."

[3] U. S. Census, 1800. Mr. Mellick notices this fact, and thinks that it was due to the large Dutch and German population. He says that the greatest number of slaves were to be found in the counties where the Dutch and Germans predominated. *Story of an Old Farm*, pp. 220–228.

[4] Population of New Jersey:

Year.	*Total Population.*	*Slaves.*	*Per Cent. of Slaves.*	
1737	47,402	3,981	8.4	(Gordon.)
1745	61,383	4,606	7.5	"
1790	184,139	11,423	6.2	(U. S. Census.)
1800	211,949	12,422	5.8	"
1810	245,555	10,851	4.4	"
1820	277,575	7,557	2.7	"
1830	320,823	2,254	.7	"
1840	373,306	674	.18	"
1850	489,555	236*	.048	"
1860	672,035	18*	.0026	"

* Legally "apprentices" for life.

CHAPTER II.

The Government of Slaves.

Regulations bearing upon the faults and misdemeanors to which slaves are peculiarly liable first appear in New Jersey legislation in laws for the correction of truancy on the part of slaves and servants. As early as 1675,[1] under the Proprietary government, it was enacted that persons who assist in the transportation of a slave shall be liable to a penalty of five pounds and must make good to the owner any costs that he may have sustained. Those who entertain or harbor any slave known to be absent from his master without permission must pay to the owner "ten shillings for every day's entertainment and concealment."[2] The Indians by their reception of negroes appear to have caused the settlers some annoyance. We read in the Journal of the Governor and Council that, in 1682, it was "agreed and ordered that a message be sent to the Indian sachems to confer with them about their entertainment of negro servants."[3] Again, in 1694, the "countenance, harboring and entertaining of slaves by many of the inhabitants"

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[1] Leaming and Spicer, p. 109.

[2] These provisions were virtually reënacted in a law for East Jersey, "against fugitive servants and entertainers of them," in 1682, just after that Province came under the government of the twenty-four Proprietors. L. and S., p. 238; *N. J. Ar.*, XIII, 31, 33 and 157. In 1683, in West Jersey, in order to prevent servants from running away from their masters, magistrates and other inhabitants were directed to require from all suspicious travellers, a certificate showing that they were not fugitives. L. and S., p. 477.

[3] *N. J. Ar.*, XIII, 22.

Erreur de retirure.
Pour la suite, voir plus loin.

calls for heavier penalties. By a law of that year such entertainment, if it extends to as much as two hours, renders the offender liable to a penalty of twenty shillings, and a proportional sum for a longer time.[1] Furthermore, any person may apprehend as a runaway any slave found "five miles from his owner's habitation" without a certificate of his owner's permission; and for this service the master must give recompense in money at a prescribed rate.[2]

During the period of the royal governors there were two new regulations bearing on the recovery of fugitives. Any slave from another Province travelling without a license, or not known to be on his master's business, was to be taken up and whipped; and should remain in prison until the costs of apprehending him had been paid by his owner.[3] Persons from a neighboring Colony suspected of being fugitives must produce a pass from a justice, "signifying that they are free persons," otherwise to be imprisoned until demanded.[4]

Under the State laws more stringent regulations referring to fugitives are found. By the law of 1786 the freedom of movement of negroes was very closely restricted. Negroes manumitted in other States were not allowed to travel in New Jersey. Any person who employed them, concealed them, or suffered them to reside or land within the State was liable to a penalty of five pounds per week. Free negroes of New Jersey were not to travel beyond their township or county without an official certificate of their freedom.[5] This severity was modified somewhat by the law of 1798. A free negro from another State might now travel in New Jersey provided that he produced a certificate signed by two Justices of the

[1] That this entertainment of negroes was a real evil in the later Colonial period is shown by an advertisement for a fugitive slave in 1750, which reads: "and whereas he has been harboured once before, whoever informs who harbours him shall have ten pounds reward." *N. J. Ar.*, XII, 644.

[2] L. and S., p. 340; *N. J. Ar.*, XIII, 205.

[3] Act for regulating of slaves, 1714; Nevill, I, 18.

[4] 1714. Nevill, I, 24.

[5] Acts of General Assembly.

Peace of his State showing his freedom.[1] That all black men should be regarded as slaves until evidence appeared to the contrary, was held by the Supreme Court even as late as 1826.[2] Yet by the U. S. Census of 1820, New Jersey contained nearly twice as many free negroes as slaves. The court receded from this position ten years later, the injustice of the ruling having become very obvious owing to the small proportion which slaves bore to the colored population.[3]

The ferries from New Jersey to New York constituted routes by which fugitive slaves occasionally escaped. On July 4, 1818, a slave mingling in the holiday crowd gained a passage on the ferry-boat running from Elizabeth-Town to New York, and, after reaching the latter place, escaped. The master of the slave sued the owner of the ferry-boat and obtained damages for the loss of the slave.[4] Seven years later there is recorded a similar escape on a steamboat running from Perth Amboy to New York.[5]

The apprehension of fugitive slaves from other States was provided for with great care by a law of 1826.[6] On the proper application[7] by the master, a fugitive might be arrested by the sheriff and brought before a judge of the inferior Court of Common Pleas. If the judge deemed that there was enough proof he was to give the claimant a certificate, which should be sufficient warrant for the removal of the fugitive from the

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[1] Any person harboring, concealing or employing any negro without such a certificate was liable to a fine of $12 for every week of such action. Paterson, p. 307.

[2] Fox *vs.* Lambson, *N. J. Law Rep.*, VIII, 339–349 (3rd Halsted). This principle was authoritatively established, in 1821, by the case of Gibbons *vs.* Morse carried up to the court of errors and appeals, *N. J. Law Rep.*, VII, 305–327 (2nd Halsted); and reaffirmed in Fox *vs.* Lambson.

[3] Stoutenborough *vs.* Haviland, *N. J. Law Rep.*, XV, 266–269 (3rd Green).

[4] Gibbons *vs.* Morse.

[5] Cutler *vs.* Moore, *N. J. Law Rep.*, VIII, 270–278 (3rd Halsted).

[6] 51 Ses., *Statutes*, 90.

[7] Application by the master, personally or by attorney, to any judge of any inferior Court of Common Pleas or Justice of the Peace.

State. A case falling under this law, and carried up to the Supreme Court in 1826, led to a debate in that court which called in question the justice of the law. The judges concurred in discharging the prisoner, a negro claimed as a runaway slave from Maryland; but showed great disagreement in the discussion of the merits of the case. Chief Justice Hornblower held that questions of fact were involved, such as, was the negro lawfully held to service in the State from which he came? has he fled into this State? has the claimant any right to his services? Here were facts which must be judicially determined, "facts which involve the dearest rights of a human being." These facts the Justice believed should not "be tried and definitely sealed in a summary manner, and without the verdict of a jury."[1] The next year, probably as the result of the discussion in the Supreme Court, the fugitive slave law was amended.[2] A judge having a fugitive brought before him must appoint a certain time and place for the trial of the case, and associate with him two other judges. Either party might demand trial by jury.[3]

Other Police Regulations.

Besides the provisions for the correction of truancy, various other police regulations were established from time to time. The early inhabitants of East Jersey appear to have been much troubled by the thievishness of their slaves. The complaint was that slaves stole from their masters and others and then sold the stolen goods at some distance away. In the belief that a market was necessary to make pilfering worth while, all traffic whatever with slaves was forbidden in 1682,

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[1] The State *vs.* Sheriff of Burlington. Hurd, *Law of Freedom and Bondage*, II, 64–67. Owing to disagreement among the judges as to the proper extent of the discussion, the case was not given in the *State Reports*.

[2] 61 Ses., 2 sit., *Statutes*, 134.

[3] In the revision of 1847 virtually the same law was approved and so stood as the fugitive slave act of the State. *Revision of* 1847, p. 567.

under heavy penalties.[1] If any slave were found offering goods for sale without the permission of his master it was the duty of the person to whom the article was offered to take up and whip the slave, for which service the master must pay a reward of half a crown.[2] Later, in the same Province, we read that slaves allowed to hunt with dog and gun killed swine under pretence of hunting. In 1694, slaves were prohibited from carrying any "gun or pistol," and from taking any dog with them into the "woods or plantations," unless accompanied by the master or his representative.[3] If any person "lend, give or hire out" a pistol or gun to a slave, that person must forfeit the gun or twenty shillings to the owner of the slave.[4] In West Jersey, in the Proprietary period, the selling of rum to negroes was found to be productive of disorder. Any person "convicted of selling or giving of rum, or any manner of strong liquor, either to negro or Indian," except the stimulant be given in relief of real physical distress, becomes liable to a penalty of five pounds by a law of 1685. As the offense was one difficult of detection, "one creditable witness or a probable circumstance" was accounted "sufficient evidence," unless the accused gave his "oath or solemn declaration that he has not transgressed the law."[5]

Regulations against harboring, trading with, or selling rum to slaves were reënacted during the period of the royal Governors, and in the State legislation.[6] Others were added, such as: the prohibition of large or disorderly meetings of slaves,[7]

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[1] Similar penalties are found in the slave law of 1714, and thus held throughout the Colonial period.

[2] L. and S., 254; *N. J. Ar.*, XIII, 82. Law passed at Elizabeth-Town.

[3] Act passed at Perth Amboy. L. and S., 340; *N. J. Ar.*, XIII, 205.

[4] By the same law, no inhabitant should allow his slave to keep swine marked with another brand than the owner's. This provision was probably intended to prevent dishonesty on the part of masters.

[5] Act passed at Burlington. L. and S., 512.

[6] Laws of 1714, 1738, 1751 and 1798. Nevill, I, 242; Allison, 191; Paterson, 307.

[7] Laws of 1751 and 1798.

the rule that all slaves must be at home after a certain hour at night,[1] that slaves shall not go hunting or carry a gun on Sunday,[2] that slaves shall not set a steel trap above a specified weight,[3] that slaves shall not be permitted to beg.[4] For the correction of the smaller faults and misdeeds there was the workhouse. A law of 1754 provided that in the borough of Elizabeth, servants and slaves accused of "any misdemeanor or rude or disorderly behavior," being brought before the Mayor, may be "committed to the workhouse to hard labor" and receive corporal punishment not exceeding thirty stripes.[5] In 1799 the system was established throughout the State. "Any stubborn, disobedient, rude or intemperate slave or male servant" might be committed to the workhouse to endure confinement and labor at the discretion of a Justice of the Peace. The master paid the cost of maintenance of the slave while so confined.[6]

The Criminal Law for Slaves.

During nearly the whole period of the Proprietary Colony the same general criminal laws governed both slaves and freemen. The bond as well as the free were tried in the ordinary courts, for crimes and misdemeanors. In 1695 a change was made. Special courts were provided for the trial of slaves

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[1] Nine o'clock by law of 1751, ten o'clock by law of 1798.

[2] Laws of 1751 and 1798. These laws, however, did not prevent a negro or slave from going to any place of worship, or from burying the dead, or from doing any other reasonable act, with his master's consent.

[3] In 1760 an "Act to regulate the size of traps to be hereafter set in this Colony" directed that any slave setting a steel trap above a specified weight "shall be whipped with thirty lashes and committed until the cost is paid." *N. J. Statutes*, p. 61.

[4] The law of 1798 imposed a penalty of $8 for permitting slaves to beg, one-half to be paid to the overseers of the poor and one-half to the person who prosecuted.

[5] Nevill, II, 25, 29.

[6] An act for the establishment of workhouses in the several counties of this State. Paterson, 379.

and an exceptional form of punishment was prescribed for slave offenders.[1] Slaves accused of a felony or murder were to have trial by jury before three Justices[2] of the Peace of the county, and on conviction were to receive, in general, the punishments "appointed for such crimes."[3] Under the royal governors, the law of 1714 adhered to the principle of special courts for slaves. Ordinarily the trials of slaves for capital offences were to be before three or more Justices of the Peace and five principal freeholders of the county; but the master might demand trial by jury.[4] In 1768 the use of special courts was discontinued, and slaves accused of capital offences were once more tried in the ordinary courts[5] as freemen were. The reason given for this return to earlier practice was that the method by special courts had "on experience been found inconvenient."[6] Throughout the period of the royal governors special forms of punishment were provided for slaves. Not until 1788, under the State government, was it enacted that all criminal offences of negroes should be punished in the same manner as the criminal offences of other inhabitants of the State were.[7] Even under the State legislation the provisions allowing corporal punishment or transportation to be substituted in some cases for the usual punishment, at the discretion of the court, violated somewhat the principle of uniformity of procedure.

As might be expected from the grade of civilization developed in the various Colonies and the accompanying stringent

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[1] Act passed at Perth Amboy, 1695. L. and S., 357.

[2] One being of the quorum.

[3] The special punishment provided was, that slaves convicted of stealing should receive corporal punishment, not exceeding forty stripes, the master making good the amount stolen.

[4] Allinson, 18.

[5] The courts mentioned were the Supreme Court, Court of Oyer and Terminer and General Gaol Delivery, and Court of General Quarter Sessions of the Peace.

[6] Allinson, 307.

[7] Acts of 13th General Assembly.

criminal code, the punishments provided for slaves in New Jersey throughout the Colonial period were severe and often cruel.[1] As early as 1704 the Lords of Trade recommended to the Queen the repeal of an act lately passed by the Assembly because one clause inflicted inhuman penalties upon negroes.[2] By the slave law of 1714[3] any "negro, Indian or mulatto slave" murdering or attempting the death of any freeman, wilfully murdering any slave, committing arson, "rape on any free subject," or mutilation of any free person, is to suffer the penalty of death.[4] The manner of death, however, is not specified, but is to be such as the "aggravation or enormity of their crimes" (in the judgment of the justices and freeholders trying the case) "shall merit and require." The testimony of slaves was admitted in the trials.[5] When a slave was executed, the owner received for a negro man thirty pounds and for a

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[1] That in the rough, frontier conditions of the Proprietary Colony the punishments were sometimes cruel, although slaves were tried in the ordinary courts, is evident from an instance given by Mr. Mellick. He says that in 1694 a Justice presiding at the Monmouth court of sessions, sentenced a negro convicted of murder to suffer as follows: "Thy hand shall be cut off and burned before thine eyes. Then thou shalt be hanged up by the neck until thou art dead, dead, dead; then thy body shall be cut down and burned to ashes in a fire, and so the Lord have mercy on thy soul, Cæsar" (*Story of an Old Farm*, p. 225).

[2] *N. J. Ar.*, III, 473, Representation of Lords of Trade to the Queen. Allinson, p. 5.

[3] Nevill, I, 18; Allinson, 18.

In the Journal of the Governor and Council, *N. J. Ar.*, XIII, 439, 440, 448, we find record that the Council in 1710 passed "An Act for deterring negroes and other slaves from committing murder and other notorious offenses within this Colony." The provisions are not given.

[4] Poisoning was sometimes practiced by slaves in the Colonial period. In 1738 two negroes, found guilty of destroying sundry persons by poison, were executed at Burlington. At Hackensack, in 1744, a negro was executed for poisoning three negro women and a horse. *N. J. Ar.*, XI, 523, 537; XII, 223.

[5] At the trial of the negro man "Harry" in Bergen County, 1731, who was hung for threatening the life of his master and poisoning the slave "Sepio," many negroes were summoned as witnesses. Bergen Co., "Liber A," p. 24.

woman twenty pounds, the money being raised by a poll tax upon all the slaves in the county above fourteen years of age and under fifty.[1] This payment made good to the master a loss of property due to no fault of his. Further, it left him no inducement to transport the slave out of the Province and thus encourage other negroes to crime by allowing the hope that punishment might be escaped. In the case of slaves attempting rape, or assaulting a free Christian, any two justices of the peace were authorized to inflict such corporal punishment, not extending to life or limb, as they might see fit. Slaves stealing under the value of five shillings were to be whipped with thirty stripes; if above five shillings, with forty stripes.[2]

A form of execution frequently chosen was burning at the stake. At Perth Amboy, in 1730, a negro was burnt for the murder of an itinerant tailor.[3] In Bergen County, in 1735, the slave "Jack" was burnt. He had beaten his master, several times had threatened to murder his master and the son of his master and to burn down his master's house, and when arrested tried to kill himself.[4] In Somerset County, in 1739, a negro was burnt for brutally murdering a child, attempting to murder the wife of his overseer, and setting fire to his master's barn.[5] In 1741 two negroes were burnt for

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[1] Bergen County Quarter Sessions in 1768 ordered that Hendrieck Christian Zabriskie should have thirty pounds for his negro named Harry, lately executed for the murder of Claas Toers. The money was collected from the slave-owners of the county, upon the basis of an assessment of ten pence per head upon all slaves in the county. Bergen Co. Quar. Sess., January 27, 1768.

[2] In Hackensack in 1769, a slave pleading guilty to the charge of stealing, was whipped at the public whipping-post and before the houses of two prominent citizens, with thirty-nine lashes on each of three days, being taken from place to place tied to a cart's tail. Bergen Co. Quar. Sess., October 24, 1769.

[3] *Am. Wk. Mercury*, Jan. 14–20, 1729 (1730); (*N. J. Ar.*, XI, 201).

[4] Bergen County, "Liber A," p. 36.

[5] *Boston Wk. News-Letter*, Jan. 18–25, 1739 (*N. J. Ar.*, XI, 558). In the same county, five years later, a negro was burnt for ravishing a white child. *Pa. Gazette*, Dec. 14, 1744 (*N. J. Ar.*, XII, 244).

setting on fire several barns in the neighborhood of Hackensack.[1] Mr. Whitehead says that the New York "Negro Plot" of 1741 caused many executions by burning as well as by hanging in New Jersey. He describes a case ten years later, near Perth Amboy, when all the negroes of the neighborhood were compelled to witness the execution.[2]

The criminal law of 1768, which supplanted the provisions relating to capital offences in the act of 1714, represents an increase of severity. It appointed the penalty of death for the crimes made capital under the earlier law, and for others as well. A slave convicted of manslaughter, or of stealing any sum of money above the value of five pounds, or of committing any other felony or burglary, was to suffer death or such other pains and penalties as the justices might think proper to inflict. In this law, as before, there was no specification as to the manner in which death might be inflicted.[3]

Under the early State legislation the severe and peculiar forms of punishment provided for slaves by the Colonial laws disappeared. In 1788, it was enacted that all criminal offences of negroes, whether slaves or freemen, should be "enquired of, adjudged, corrected and punished in like manner as the criminal offences of the other inhabitants of this State are."[4] This principle was firmly established by the passage in 1796 of "An Act for the punishment of Crimes," a comprehensive and fundamental criminal law, which, in general, prescribed one punishment for all persons guilty of a particular crime, mentioning no distinction between bond and free.[5] Slaves continued, however, to be to some extent the subject of special criminal legislation. By the law of 1796 a court might impose upon any slave, in place of the usual punishment,

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[1] Bergen County, "Liber A," p. 44.

[2] Whitehead, W. A., *Contributions to the Early History of Perth Amboy*, pp. 318–320; also *Wk. Post Boy*, July 2, 1750 (*N. J. Ar.*, XII, 652).

[3] Allinson, 307; *N. J. Ar.*, XVII, 483, 485, 486 (Jour. of Prov. Council).

[4] Acts of 13th Gen. Assem., Nov. 26, 1788. [5] Paterson, 220.

corporal punishment at its discretion and not extending to life or limb, for any offence not punishable with death. By the act of 1801, when slaves were convicted of arson, burglary, rape, highway robbery, or assault with intent to commit murder, the court might choose to order them to be sent out of the United States.[1] In this case the owner was compelled to give bond that he would faithfully execute the court's decree, and finally file a certificate that the sentence has been complied with.

Negro Plots.

We have seen that by the police regulations enacted for the government of slaves, negroes were forbidden to assemble together in companies, except with their master's consent for some reasonable purpose, such as to attend public worship or to bury their dead. Furthermore, slaves must be at home after nine o'clock at night.[2] These provisions were probably called forth by fear of slave insurrections; but it is difficult to determine to what extent the legislation was connected with actual experience of negro plots.

In 1734, a rising in East Jersey,[3] near Somerville,[4] was feared. Certain negro quarters some miles remote from the master's dwelling-house had become a rendezvous for the negroes of the neighborhood. The slaves round about stole from their masters provisions of various sorts which they carried to their place of meeting and feasted upon, sometimes in large companies. It was claimed that at one of these meetings some hundreds had entered into a plot to gain their freedom by a massacre of the whites. A belief on the part of the negroes that they were held in slavery contrary to the

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[1] 25 Ses., 2 sit., *Statutes*, 77. See also on this subject, *Revision of* 1821, pp. 736, 793, and 44 Ses., *Statutes*, 74, sec. 20.

[2] *Supra*, p. 37.

[3] *N. Y. Gazette*, March 18–25, 1734, gives a detailed account of the conspiracy.

[4] Mellick, p. 226, says that the excitement was near Somerville.

positive orders of King George appears to have been an element contributing to the excitement. According to the plan of the conspirators, as soon as the weather became mild enough so that living in the woods might be possible, at some midnight agreed upon, all the slaves were to rise and slay their masters. The buildings were to be set on fire and the draught horses killed. Finally, the negroes, having secured the best saddle horses, were to fly to the Indians and join them in the French interest. Suspicion of a negro plot was first aroused by the impudent remarks of a drunken slave. He and another negro were arrested, and at their trial the above details were brought out. The insurrection believed to be threatening was suppressed with considerable severity.[1]

That delirium of the New York people in 1741, known as the "Negro Conspiracy," appears to have spread to some extent into neighboring New Jersey also. Mr. Whitehead thinks that this panic caused many executions in New Jersey.[2] In one day seven barns were burned at Hackensack; an eighth caught fire three times, but fortunately was saved. It was believed that these were set on fire by a combination of slaves, for one negro was taken in the act. The people of the neighborhood were greatly alarmed and kept under arms every night. Two negroes charged with committing the crime were burned.[3] Mr. Hatfield quotes from the Account Book of the Justices and Freeholders of Essex County the following items: "June 4, 1741, Daniel Harrison sent in his account of wood carted for burning two negroes." . . . "February 25, 174½, Joseph Heden acct. for wood to burn the negroes Mr. Farrand paid allowed 0. 7. 0. Allowed to Isaac Lyon 4/ Curr^{y} for a load of wood to burn the first negro, 0. 4. 0."[4] Mr. Whitehead

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[1] About thirty negroes were apprehended; one of them was hanged, some had their ears cut off, and others were whipped. Poison was found on several of them. *N. J. Ar.*, XI, 333, 340.

[2] Whitehead, *Perth Amboy*, p. 318. [3] *N. J. Ar.*, XII, 88, 91, 98.

[4] Hatfield, *History of Elizabeth, N. J.*, p. 364.

says that, in 1772, "an insurrection was anticipated, but was prevented by due precautionary measures."[1]

Mr. Hatfield tells of a panic regarding negroes at Elizabeth-Town during the Revolution.[2] In June, 1779, a conspiracy of the negroes to rise and murder the people of the town was discovered. The Tories, whose plundering expeditions had been very exasperating, were held responsible for this new danger also. The resentment aroused by these occurrences caused the Court of Common Pleas to enter severe judgments against many Tories. Mr. Atkinson states that in 1796 there was, among the whites, great fear of negro violence, and a feeling of bitterness toward the slaves was developed.[3] The agitation was caused by the attempts of certain blacks to set fire to buildings in New York, Newark and other places.

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[1] Whitehead, *Perth Amboy*, pp. 318–320. [2] Hatfield, p. 476.
[3] Atkinson, J., *History of Newark, N. J.*, pp. 170–172.

CHAPTER III.

The Legal and Social Position of the Negro.

The subject of manumission began to demand legislative action at the time of the royal governors. According to what forms manumission should be legal, what limitations it might be expedient to place on the power to manumit; these were considerations which then became of great consequence and retained their prominence even until after the disappearance of slavery from New Jersey life. Furthermore, the interpretation given by the courts to the existing law of manumission often decided for the colored man whether his position was that of freeman or slave.

Very early in the eighteenth century it is recorded that experience had shown "that free negroes are an idle, slothful people and prove very often a charge to the place where they are."[1] Therefore, the law of 1714 had a provision designed to prevent freedmen from ever coming upon the township as paupers. It enacted that any master manumitting a slave must enter into "sufficient security," "with two sureties in the sum of 200 pounds," to pay to the negro an annuity of 20 pounds. In case of manumission by will the executors must give such security. Owners or their heirs were obliged to maintain all negroes not manumitted according to law. The desire to save townships the expense of supporting freedmen was not recognized to such an extent as to allow unfortunate negroes actually to suffer. An act of 1769 states

[1] Law of 1714. Nevill, I, 18.

definitely that if the "owner becomes insolvent and so incapable of providing for his slaves, who shall by sickness or otherwise be rendered incapable of maintaining themselves, they shall be relieved by the township the same as white servants."[1] In 1773, in response to several petitions, a bill providing for manumission without the giving of security was introduced in the Assembly. The bill stated that the manumission law of the Colony had on experience been found too indiscriminate, the requirement of equal security in all cases working, in some instances, to "prevent the exercise of humanity and tenderness in the emancipation of those who may deserve it." In view of the great opposition as well as favor with which the bill was received, the House ordered that the bill be printed and referred to the next session.[2] At the next session, in 1775, the various petitions presented for and against the bill led to another postponement to the following session;[3] by which time the greater interests of the Revolution crowded out the consideration of this matter.

Immediately after the Revolution we find a peculiar form of manumission, that by special act of the legislature. On three occasions previous to the year 1790, slaves that had become the property of the State, through the confiscation of Tory estates, were set free by act of the legislature.[4] The negroes were given their freedom in recognition of past services to the State or to the Federal cause.[5]

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[1] Allinson, 315. The law of 1679 reënacted the requirements of the law of 1714.

[2] *Assem. Jour.*, Nov. 30, 1773, to Feb. 16, 1774.

[3] *Assem. Jour.*, Jan. 28 to Feb. 7, 1775.

[4] 1784, 1786 and 1789; 8 Ses., 2 sit., *Statutes*, 110; 11 Ses., 1 sit., *Statutes*, 368; 14 Ses., 1 sit., *Statutes*, 538.

[5] There is record of an interesting case of this form of manumission in 1840. Cæsar Jackson, a colored man of Hackensack, was a slave in law, having been born previously to the year 1804. His late master, Peter Bourdett, had inserted in his will a request that, at his death, the slave Cæsar Jackson should be set free. The heirs of Peter Bourdett desired to carry out his request, but had been unable to do so. They had given

In 1786, changes were made in the law of manumission. Slaves between the ages of twenty-one and thirty-five, sound in mind, and under no bodily incapacity of obtaining a support, might now be emancipated without security being given for their support. A master must first secure a certificate signed by two overseers of the poor of the township and two Justices of the Peace of the county, showing that the slave met the requirements as to age and health. He might then manumit the slave by executing a certificate under his hand and seal in the presence of two witnesses. A similar manumission by will was valid. In all other cases the master (or his executors) was compelled to give security that the negro should not come upon any township for support.[1] These provisions were virtually reënacted in the slave law of 1798.[2] A supplementary law in 1804 provides for registration of instruments of manumission by the county clerk.[3] Such record by the clerk was receivable as evidence in the courts.[4]

The New Jersey courts interpreted the law on manumission in a liberal spirit. They were ready to presume a manumission, if an actual, formal emancipation according to law could not be proven, whenever the circumstances seemed to warrant such a procedure. In 1789, a negro woman who had lived and worked in the neighborhood of Shrewsbury as a free woman for seventeen years, with no claim upon her as a slave,

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Cæsar Jackson a lot of land in the township, and he had erected on it a dwelling-house for himself and his family; but he had been unable to obtain a deed for the land, as he was still a slave at law. In view of these circumstances Cæsar Jackson was emancipated by act of the legislature. 64 Ses., 2 sit.. *Statutes*, 19. See also *Assem. Jour.*, Jan. 29 to Feb. 17.

[1] Acts of Gen. Assem., 1786. [2] Paterson, 307.

[3] 29 Ses., 1 sit., *Statutes*, 460. The registration book for Bergen County is entitled "Liber A. Manumition of Slavery." It records: (1) the certificate by two overseers of the poor and two Justices of the Peace; (2) the deed of manumission; (3) the Justice's certificate that the deed is executed voluntarily.

[4] The certificate of health and capacity need now be signed by only one overseer of the poor.

was declared free by the Supreme Court. The court held that the above facts proven were *prima facie* evidence of freedom and would compel the defendant to prove a strict legal property, which he had not done.[1] Similarly, six years later, the court decided that a certain negro woman, who had been promised her freedom by her mistress, and who had lived for ten years as a free woman with the acquiescence of the person claiming her, was entitled to her freedom.[2] Verbal declarations by a master that after his death his slave should be free, as a reward for good behavior, entitled the slave to receive his liberty. In the opinion of the court, these declarations amounted to an actual manumission to take effect on the master's death; or, if they were regarded as proving nothing more than a promise, it was still a promise binding upon the master's executors.[3] A case in 1794[4] shows the limit to which

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[1] The State *vs.* Lyon, *N. J. Law Rep.*, I, 462. A slave woman named Flora had been the property of a certain Dr. Eaton, of Shrewsbury. He had frequently declared that he was "principled against slavery; that he never intended Flora to belong to his estate; nor should any of his children be entitled to hold her as their property." After his death his wife had stated that she had set Flora free. From that time Flora was considered in the neighborhood as a free woman; and lived and worked as such, with no claim upon her as a slave, for seventeen years. During this time she had married a free negro, with whom she had since lived. They had two children whom they had supported by their industry and kept with them until one, Margaret, was seized and forcibly carried away as a slave. The court decided that this Margaret Reap must be set at liberty, as the above facts were not opposed by proof of strict legal property.

[2] 1795. The State *vs.* M'Donald and Armstrong, *N. J. Law Rep.*, I, 382 (Coxe.) A slave had been promised her freedom upon the death of her mistress. From the time this death occurred the negro had lived as a free woman and had worked for herself in various places. She had married a free negro and had three children by him. For ten years the husband of her late mistress acquiesced in the arrangement, but at the end of this period gave to a man a bill of sale for the negro. The court held that these facts were sufficient evidence of the woman's right to her liberty.

[3] 1790. The State *vs.* Administrators of Prall, *N. J. Law Rep.*, I, 4 (Coxe); also Halsted, *N. J. Digest*, pp. 831, 832, sec. 23.

[4] The State *vs.* Frees. *N. J. L. R.*, I, 299 (Coxe.)

the Supreme Court was willing to go on this subject. It was held that mere general declarations of an intention to set negroes free, unaccompanied by any express promise or understanding, were insufficient authority for the court to declare the negroes free.[1]

In 1793, we find a very liberal interpretation of the law when the court ignores the legal requirement of security. A certain slave owner had, by will, manumitted all his slaves. One, a boy, could not be considered as manumitted until the administrators had given the security required by law. Instead of giving security they united with the heirs in selling the boy. The court decided that the boy was entitled to his freedom whether the administrators had given the security or not.[2]

Slaves left by will to be sold for a term of years and then be free, were held to be free from the time of sale. As soon as sold they were merely servants for a term of years and no longer slaves. Any children born to them during the period of service were free.[3]

The authority of the act of 1798 was judicially established in 1806. The supreme court declared that instruments of manumission must be executed conformably to that law.[4] Again in 1842, in a case to prove legal settlement,[5] it was

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[1] If a master had made a contract with his slave for his freedom and the terms had been fully complied with, the negro was entitled to his freedom although afterwards sold by his master. Halsted, *N. J. Digest*, pp. 831, 832, sec. 26.

[2] The State *vs.* Pitney. *N. J. Law Rep.*, I, 192 (Coxe.)

[3] 1790. The State *vs.* Anderson. *N. J. Law Rep.*, I, 41.

[4] The State *vs.* Emmons. *N. J. Law Rep.* (1st Pennington, 3rd ed., pp. 6–16). The counsel for the State endeavored to establish a distinction between emancipation as it respects the owner, and emancipation as it respects the State. He argued that so far as the master was concerned any kind of manumission might be valid, but at the same time be void so far as it affected the government. The court held that "slavery was an entire thing;" that a negro could not be considered as at once slave and free.

[5] The Overseers of the Poor of Perth Amboy *vs.* The Overseers of the Poor of Piscataway. *N. J. Law Rep.*, XIX, 173–181 (4th Harrison).

held that "a deed of manumission although acknowledged and recorded, was not valid unless executed in the presence of at least two witnesses"[1] as the act of 1798 required.[2]

Rights and Privileges of Slaves and Free Negroes.

The protection of slaves from ill-treatment by their masters received some attention in New Jersey legislation. As early as 1682, in the Proprietary Colony, one section of a "Bill for the general laws of the Province of East New-Jersey" provides "that all masters and mistresses having negro slaves, or others, shall allow them sufficient accommodation of victuals and clothing."[3] Queen Anne's instructions to the first royal governor, Lord Cornbury, required him to endeavor to get a law passed protecting servants and slaves from "inhuman severity" on the part of their masters. The "Instructions" directed that this law should provide capital punishment for the "willful killing of Indians and negroes" and a suitable penalty for the "maiming of them."[4] Again, in the early legislation of the State, one of the reasons given for the enactment of the slave law of 1786 was "that such [slaves] as are under servitude in the State ought to be protected by law from those exercises of wanton cruelty too often practiced upon them." Any person "inhumanly treating and abusing" his slave might be indicted by the grand jury, and on conviction might be fined.[5]

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[1] There had been many instances in which deeds of manumission had been executed conformably to law in every respect, excepting that there had been but one witness. These manumissions were made valid by a special act of the legislature in 1844 (68 Ses., 2 sit., *Statutes*, 138).

[2] In a case of postponement of a trial by *habeas corpus* the defendant was ordered to enter into recognizance to produce the negro at the future trial and, in case of adverse judgment, to pay for the services of the negro during the intervening time. Halsted's *Digest*, p. 831, sec. 21. In another case the defendant was ordered to enter into recognizance not to send the negro out of the State (Halsted's *Digest*, p. 831, sec. 22).

[3] L. and S., 237.

[4] *Ibid.*, 640–642.

[5] Laws of N. J., 1786. This provision was repeated in the law of 1798.

The owner[1] of a slave was held in law obliged to support the slave at all times, provided that the negro had not been legally manumitted. If the master became insolvent and so unable to provide for his slave, the negro, if unable to maintain himself, was treated as a pauper. Any person, "fraudulently selling an aged or decrepit slave to a poor person unable to support him," was liable to punishment by a fine of $40.[2] A master who had disclaimed all responsibility for the support of his slave could not be held liable to a third person for the negro's maintenance.[3] Yet, if the overseer of the poor had found the slave in actual want, it would have been his duty to give immediate relief, and then recover from the master.

The value and need of some amount of education for slaves was recognized soon after the establishment of the State government. The law of 1788 provided that all slaves and colored servants for life or years, born after the publication of the act, should be taught to read before they reached the age of twenty-one years. Any owner failing to supply this instruction was to forfeit the sum of five pounds.[4]

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[1] After the master's death the heirs were held responsible for the slave's support. Chatham *vs.* Canfield, *N. J. Law Rep.*, VIII, 63–65, decided what circumstances were sufficient proof of a testator's ownership of a slave to make the executors liable for the negro's maintenance (1824.)

[2] Law of 1798. Paterson, 307.

[3] 1840. Force *vs.* Haines, *N. J. Law Rep.*, XVII, 385–414 (2nd Harrison.) Force had refused to support his slave, an infirm and helpless cripple. Elizabeth Haines, having maintained the negro for several years, finally sued Force for the cost of "board, clothing, and necessaries furnished for his slave."

[4] Acts of 13th. Gen. Assem. The provision was reënacted in the law of 1798.

At first sight this fine might seem trifling; but it was probably quite sufficient to be a severe penalty, considering the small charge made for teaching at the time. School bills given by Mr. Mellick show how low the charges were. Christopher Logan had a bill against the "Estate of Aaron Melick Dec'd," "To Schooling Negro boy Joe 61 days $1.39;" later "Wm. Hambly, teacher," charges "$4.16 for 159 days Schooling." (*Story of an old Farm*, p. 608.)

All black men were presumed to be slaves until the contrary appeared, as has been shown earlier in this paper.[1] The Supreme Court held to this position even as late as 1826, when the free negroes numbered twice as many as the slaves, and only receded from it ten years later when the injustice of the ruling had become very evident. Nevertheless, the court early decided that any person claiming a particular negro as a slave must prove a good title to him.[2] A negro thus claimed need not prove himself absolutely a freeman in order to obtain his liberty. If he disproved the right of the person who claimed him, that was sufficient. That the negro had been actually held as property and had acquiesced in the arrangement was no proof of a good title.

In most cases at law no slave might be a witness. He was allowed to testify in criminal cases when his evidence was for or against another slave.[3] The presumption of slavery arising from color must be overcome before a negro could be received as a witness. A slave might not be a witness even to show whether he were bond or free. His declarations on that point might not legally be accepted as evidence.[4] That a negro was reputed free from childhood, or had lived to all intents and purposes as a freeman for more than twenty years, the courts decided was sufficient proof to overcome the presumption arising from color, and permit the negro to be admitted as a witness.[5] Free negroes, therefore, were commonly received as witnesses.

In 1760[6] the enlistment of slaves, without the express permission in writing of their masters, was forbidden. This provision evidently was caused, not by prejudice against the negro, but by unwillingness to deprive masters of the services

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[1] *Supra*, p. 34.
[2] 1795. The State *vs.* Heddon. *N. J. Law Rep.*, I, 377.
[3] Acts of 1714 and 1798.
[4] 1826. Fox *vs.* Lambson, *N. J. Law Rep.*, VIII, 339–347.
[5] *Ibid.*, and Potts *vs.* Harper, *N. J. Law Rep.*, III, 583.
[6] Nevill, II, 267.

of their slaves. The occasion of the prohibition was the raising of one thousand volunteers for a campaign against Canada in the French and Indian War. To what extent negroes in New Jersey took part or aided in the Revolution it is difficult to determine. A law of 1780 for the recruiting of the remainder of New Jersey's quota of troops for the service of the United States forbids the enlistment of slaves.[1] The following year a law for the same purpose repeats the prohibition.[2] Yet slaves from New Jersey served, in various capacities, both the State and the Federal Government during the war. Two instances are recorded when a slave was manumitted by act of legislature as a reward for faithful service of the Revolutionary cause. Peter Williams, a slave who belonged to a Tory of Woodbridge, having been taken within the British lines by his master, escaped through them in 1780. He served for some time with the State troops and later enlisted in the Continental army, serving there until the close of the war. When his master's estate was confiscated he became the property of the State, and, in 1784, was set free by an act of the legislature.[3] Five years later a slave named Cato, part of the confiscated estate of another Woodbridge Tory, received his freedom in the same manner. The act declared that Cato had "rendered essential service both to this State and the United States in the time of the late war."[4]

In the Colonial period freedmen were denied the right to hold real estate. The law of 1714 enacted that no negro, Indian, or mulatto thereafter manumitted should hold real

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[1] 5th Assembly, *N. J. Laws.* [2] Wilson, 209.

[3] 8 Ses., 2 sit., *Statutes*, 110; *Assem. Jour.*, Aug. 30 to Sept. 1, 1784.

[4] 14 Ses, 1 sit., *Statutes*, 538; *Assem. Jour.*, Nov. 13–25, 1789. In 1786 another negro, named Prime, the property of the State, was emancipated by special statute. He had formerly been the slave of a Tory of Princeton. No specific reason was given for this action other than, that "the legislature was desirous of extending the blessings of liberty and the said negro Prime hath shown himself entitled to their favorable notice." 11 Ses., 1 sit., *Statutes*, 368.

estate "in his or her own right, in fee simple or fee tail" but the same should "escheat to her Majesty, her heirs and successors."[1] A free negro was entitled to vote in the State during the early years. The suffrage was not confined to whites by the constitution adopted in 1776.[2] Article IV states that "all inhabitants of this Colony, of full age, who are worth fifty pounds . . . and have resided within the county" for twelve months, are entitled to vote.[3] A new constitution in 1844 limited the elective franchise to whites.[4]

The provision for allowing free negroes to gain a legal settlement is of interest, because upon legal settlement depended the responsibility of a township for the support of its colored paupers. A manumitted slave had a legal settlement in the place where his master's legal settlement was.[5] The children of slaves born free were deemed settled in the township in which they were born; but might gain a new settlement in the same manner as whites, or in any township where they had served seven years.[6] No slave whose master had not become insolvent could gain a legal settlement in any township.[7] This inability of slaves to acquire a settlement was

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[1] Nevill, I, 18. [2] Poore's *Collection*. Wilson, *Acts* (1776–1783).

[3] In 1793, as proof of the illegality of an election for fixing on a site for the Middlesex County jail and court house, it was stated that "a negro man was admitted to vote, who had no legal residence, and his declaration that he had been manumitted in another State was received as sufficient proof of his being entitled to vote." The implication here is that a negro able to show clear proof of his freedom, and having a legal residence, was entitled to vote. The State *vs.* Justices, etc., of Middlesex, *N. J. Law Rep.*, I, 283, 284 (Coxe).

[4] Poore's *Collection*, 1315. [5] *Law of* 1798. Paterson, 307.

[6] 1820. 44 Ses.; *Statutes*, 166.

[7] 1824. South Brunswick *vs.* East Windsor, *N. J. Law Rep.*, VIII, 78–83 (3rd Halsted).

As has been shown, *Supra*, pp. 45 and 51, a helpless slave was not allowed to suffer because his master was able to maintain him and yet refused to do so. It was the duty of the overseer of the poor of the township where such a slave happened to be, to give relief and then recover from the owner if possible.

established in several cases carried to the Supreme Court, where one township endeavored to prove the legal settlement of a destitute negro in another township, and then to shift the burden of his support.[1] It is the latest form in which I have found the influence of slavery traceable in New Jersey law.

Social Condition of Slaves.

The use of slave labor was, in the eighteenth century, very general in the eastern portion of New Jersey. Interesting information on the social condition of slaves is afforded by advertisements in newspapers[2] published during the Colonial period and in the early years of the State. Male slaves were employed as farm laborers of all sorts, stablemen, coachmen, stage drivers, sailors, boatmen, miners, iron workers, saw-mill hands, house and ship carpenters, wheel-wrights, coopers, tanners, shoemakers, millers, bakers, cooks, and for various kinds of service within the house or about the master's person. Slave women were employed at all kinds of household service, including cooking, sewing, spinning and knitting; and as dressing maid, barber, nurse, farm servants, etc. If a woman had children she was rendered less desirable as a slave. That the laxness of morals ordinarily found among African slaves was present in New Jersey is sufficiently evident.[3] Frequently slave women were offered for sale for no other reason than that they had children. They were, in some cases, sold without their child.

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[1] 1824. South Brunswick *vs.* East Windsor.

1842. Overseers of the Poor of Perth Amboy *vs.* Overseers of the Poor of Piscataway, *N. J. Law Rep.*, XIX, 173–181 (4 Harrison).

1857. Overseers of Morris *vs.* Overseers of Warren, *N. J. Law Rep.* (2 Dutcher, 312).

[2] The Newark *Centinel of Freedom*, the Trenton *True American* and excerpts from the Colonial journals published in *N. J. Ar.*, XI and XII.

[3] See The State *vs.* Anderson, *N. J. Law Rep.*, I, 41, and The State *vs.* Mount, *N. J. Law Rep.*, I, 337.

The newspapers contained many notices of reward for the return of fugitive slaves. In some cases the returned fugitive seems to have been treated very leniently. One instance is recorded in which he received no punishment whatever.[1] In another case the advertisement promises that if he "shall return voluntarily, he shall be forgiven, and have a new master."[2] Slaves of both sexes and various ages were among the fugitives. A man fled and left behind a wife and child. A woman with a child of nine months ran away. Slaves occasionally escaped by the ferries from Elizabeth-Town and Perth Amboy to New York.[3] In 1734, three were thought to have gone off in a canoe toward Connecticut and Rhode Island. Others attempted to get on board some vessel, or sought a chance to go privateering. A slave sometimes escaped on the back of his master's horse.

Negroes were frequently sold for a term of years. Slaves were at times hired out by their masters;[4] occasionally a plantation together with the negroes to cultivate it was rented, or a mine with the slaves to work it.[5] A negro indented servant is mentioned in 1802. In 1794, a slave was given as a donation to the Newark Academy to be sold for as much as he would bring.[6] The Rev. Moses Ogden bought him for fourteen pounds. Mr. Atkinson states that this clergyman owned a number of slaves whom he employed to work his farm lands.[7] The slave's position as a chattel is brought out clearly in many advertisements of sales where slaves are classed with horses, cattle, farming utensils and household goods.[8]

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[1] *Centinel of Freedom*, VI, No. 34. [2] *Ibid.*, IV, 45. [3] *Supra*, p. 34.
[4] *Centinel of Freedom*, VI, No. 14. [5] *N. J. Ar.*, XII, 186, 251.
[6] Atkinson, *History of Newark, N. J.*, 170–172.
[7] Moses Newell Combs, another Newarker of the same period, was a representative of the anti-slavery sentiment. He was noted for the free school which he established for his apprentices, but also advocated zealously the emancipation of slaves. This latter principle he himself put into practice by manumitting a negro that he owned (Atkinson, 148).
[8] For example, the notice of the sale of a farm at Elizabeth, in 1801, reads: "On the above farm is also to be sold a negro man with four children, a horse, chair, cows, and farming utensils" (*Centinel of Freedom*, VI, 11).

Slaves were, on the whole, well treated in New Jersey. In most cases, they lived in close personal relations with the master's family and were regarded by him as proper subjects for his care and protection. As early as 1740 there is record of a slave that could read and write.[1] Frequently slaves spoke both English and Dutch.[2] Many slaves played the violin with considerable proficiency. Under the Colonial laws, it is true, slaves accused of crime received severe treatment; but this severity must be viewed as part of the criminal law of an eighteenth century Colonial society, stern both from its origin and from its individual development.

Mr. Mellick, in his "Story of an old Farm," gives a very entertaining description of slavery on a farm at Bedminster in Somerset County. The first negro purchased was a picturesque creature of somewhat eccentric habits. He was a "master-hand at tanning, currying and finishing leather;" and, indeed, these accomplishments were the attractions that overcame the scruples of the family against slave-holding, at a time when there was great need of help in the tannery. The slaves of the farm were granted their holidays and enjoyments. In the week following Christmas they generally gave a party to which the respectable colored people of the neighborhood were invited. The whole week was one of great festivity, and but little work was expected of the blacks. Again, the day of "general training" (usually in June), was another great holiday for these slaves. This drill of the militia was regarded as a kind of fair and was a time of great sociability. The family negroes all attended in a large wagon, taking with them root beer and ginger cakes to offer for sale.

Mr. Mellick gives copies of bills for the schooling[3] of the negro children, showing that in this family the law that slaves should be taught to read was well observed. When the farmer died, his will disposed of the negroes so that those who did

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[1] *N. J. Ar.*, XII, 51.
[2] *N. J. Ar.*, XI, 209; XII, 102, 306.
[3] *Supra*, p. 51, note.

not remain on the old farm were comfortably placed with friends of his. The boys and girls were sold for terms of years merely. This shows a considerate interest in the happiness of slaves, together with a consistent regard for the welfare of his family.[1]

Slavery was very evidently an institution in New Jersey life. During the eighteenth century especially, the use of slave labor became very common in many sections. Yet, in other parts, during the same period, an anti-slavery sentiment was growing, the strength of which was shown when the Friends in 1776 denied the right of membership in their Society to slave holders. The anti-slavery movement progressed steadily, after the Revolution largely under the leadership of the abolition societies. Its influence toward practical ends is seen in the extinction of the slave trade; in the activity of various philanthropic men in securing to negroes their rights before the courts; and, later, in the gradual emancipation begun in 1804.

After the gradual abolition of slavery in New Jersey had been secured by law, the local anti-slavery movement merged into the larger agitation going on throughout the nation. The resolutions of the legislature in 1824, 1847, and 1849 show that the people of New Jersey early recognized the connection of the institution of slavery with national interests.

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[1] Mellick, A. D., *Story of an Old Farm*, pp. 602–612.

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