

**TESTING “LIBERTY” IN NEW JERSEY, 1775-1793:
THE INTERSECTION OF SLAVERY AND
SELECT MANUMISSION SUPREME COURT CASES**

SUE KOZEL¹

Abstract: Through an examination of materials from the Historical Society of Pennsylvania collections (the Richard Waln Papers and the Pennsylvania Abolition Society Papers) and the New Jersey State Archives, the paper highlights select sample writs of habeas corpus and manumission cases before the New Jersey Supreme Court from 1775-1783. The stories narrated in these documents tells a story of freedom – and lack of freedom – in New Jersey during and after the American Revolution.

Slavery was alive and flourishing during post-Revolutionary War America. In New Jersey, historian Giles Wright noted the little-known fact that the number of New Jersey slaves increased after the American Revolution, reaching its peak number in

¹ Giles Wright brought me to his New Jersey Historical Commission office to review concepts in my research, and advised me of additional areas to consider. This paper is dedicated to him. I want to thank the New Jersey Historical Commission for its funding of a 2009 Mini-Grant for my research on Richard Waln and New Jersey manumission cases/Writs of Habeas Corpus. Thank you to the Historical Society of Pennsylvania for approvals to use its documents and quote from them. Thank you to Graham Russell Hodge’s path breaking work on slavery in Monmouth County, New Jersey because his book included two key sentences written about Waln identified him as an abolitionist. Dr. Mark Lender provided guidance and suggestive direction on how the manumission research and writing about Waln could be helpful to New Jersey history, and I am grateful for his comments and encouragement of my research and public history presentations at Kean University. Thanks also to Dr. Jonathan Mercantini for his encouragement and inclusion of my research in Kean programs. Cheryl Stoeber-Goff, Museum Curator, Historic Services Office at the Monmouth County Parks, opened the door so I could use important resources in her office, at the encouragement of Gail Hunton. Cheryl’s support helped move me along. Thank you to the Landmarks of American History NEH workshop organizers and participants in the June 2008 Philadelphia Workshop. This forum enabled me to research at the Historical Society of Pennsylvania with several access passes to begin to develop the research focus. Thank you to Historian Tammy Gaskell for assisting me in the navigation of permissions from the Historical Society of Pennsylvania. Thanks to the reference librarians and archival staff at the Historical Society of Pennsylvania and The Haverford College Quaker Collections for helping me dig into manuscript collections with a context. Thank you to all the outstanding reference librarians and archivists at the New Jersey State Archives, in particular Bette Epstein. Thank you to the reference librarians at Kean, Rutgers Alexander Library, Rutgers Special Collections, OCC, MCCC, and Brookdale who helped me find resources. Finally since this article was submitted, I want SHEAR and AAG for inviting me on national conference panels to explore further the ideas in this paper and challenging my thinking about slavery and freedom as it relates to emerging free black communities, the next area of my continuing research. I also want to thank ASALH for providing the earliest national forum for my scholarship. Finally, much appreciation is expressed to Dr. Craig Coenen and Dr. Jay Spaulding for their encouragement and support of my research and public history engagement.

1800.² Why is this fact important? Students often conclude, incorrectly, that slavery in the state immediately declined after the American Revolution.

The example of Virginian Patrick Henry may help us understand the perceived irony that a people seeking their own independence would, as a nation, continue laws that denied other residents those same rights. Henry reminded us that freedom and liberty were indeed discussed in the context of slavery in 1775: “Is life so dear, or peace so sweet as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but as for me, give me liberty or give me death!”³ In the ninth edition of John Hope Franklin’s seminal work *From Slavery To Freedom: A History of African Americans*, co-editor Evelyn Brooks Higginbotham’s text notes the irony that Henry desired his own freedom but still kept his own slaves.⁴ The emerging United States supported a slave society, and New Jersey was part of this reality.

Exploring the concept of “freedom” should include this word’s relationship to the idea of “liberty”, and that investigation can be a complicated one. Modern Americans often substitute the word “freedom” for “liberty”. Maybe today we

² Giles Wright, “Moving Toward Breaking the Chains: Black New Jerseyans and the American Revolution” in *New Jersey in the American Revolution*, ed. Barbara J. Mitnick, 134 (Piscataway: Rutgers University Press, 2005). David Waldstreicher presents a compelling overview on the how slavery was a defining issue in the Constitutional Convention. David Waldstreicher, *Slavery’s Constitution: From Revolution to Ratification* (NY: Hill and Wang, 2009).

³ Patrick Henry, “Give Me Liberty” address, American History online. Facts on File, Inc. <http://www.fofweb.com/activelin2.asp?ItemID=WE52&iPin=EO6300&SingleRecord=True> (accessed February 15, 2010).

⁴ John Hope Franklin and Evelyn Brooks Higginbotham, editors. *From Slavery to Freedom: A History of African Americans*. 9th Edition (New York: McGraw Hill Learning Solutions, 2011), 85.

should start here. The Oxford English Dictionary defines the concept of liberty as “exemption or release from captivity, bondage, or slavery.” Freedom is defined as a “state or fact of being free from servitude, constraint, inhibition, etc.; liberty.”⁵ In pursuit of liberty, African Americans in New Jersey ran away from their slave owners and joined others slaves in supporting the British cause, including the infamous and fearless Monmouth County runaway slave Colonel Tye.⁶ Some slaves fought with the Americans, no doubt because New Jersey slave owners were compensated if their slaves enrolled.⁷ New Jersey Governor William Livingston called for a manumission law in 1778 based on the ideas of the Enlightenment that influenced the American Revolution.⁸ The cause of liberty resulted in African American freedom, sometimes temporary, prior to their deaths as soldiers in the King’s military. Sometimes soldiers ended up slaves once more.⁹ The pursuit of

⁵ Special Note- Access through Kean University Library Databases on February 21, 2010 and again on July 25, 2010. Oxford English Dictionary, OED online includes one concept of liberty as meaning “Exemption or release from captivity, bondage, or slavery.” Additionally, liberty can be viewed as the “Exemption or freedom from arbitrary, despotic, or autocratic rule or control.” Natural Liberty, adapted from antiquity to the Enlightenment, is included in the OED as meaning “the state in which ever one if free to act as he thinks fit, subject only to the nature of laws” while civil liberty provides for “natural liberty so far restricted by established law as is expedient or necessary for the good of the community.” Freedom is described as “the state or fact of being free from servitude, constraint, inhibition, etc.: liberty.”

⁶ The work of Benjamin Quarles still stands today. Writing about the strategic role of African Americans in the American Revolution, Quarles underscores the legislative history in how New Jersey officials respond to questions of slavery. He comments about New Jersey Governor Livingston’s attempt to encourage increased legislative manumission in 1778 as well as compensation to slaveholders for the enrollment of their slaves in the New Jersey militia. Benjamin Quarles, *The Negro in the American Revolution* (Chapel Hill: The University of North Carolina Press, 1996), 49, 71. Wright. “Moving Toward Breaking the Chains”, 126 – 130. For the story of Col. Tye, see Graham Russell Hodges, *Freedom and Slavery in the Rural North: African Americans in Monmouth County, 1665-1865* (Madison: Madison House, 1997) 97, with detailed overview from pages 96-104.

⁷ Wright, *Breaking the Chains*, 126.

⁸ Quarles, *The Negro in the American Revolution*, 49. Wright, *Breaking the Chains*, 130.

⁹ Wright, *Breaking the Chains*, 130. Wright explores the case of Sutphen who was liberated by the American patriots when his Loyalist owners’ property was confiscated. Sutphen, promised freedom by his new owner Casper Berger, would be a free man if he joined the New Jersey American forces. Sutphen was betrayed and

freedom took some African Americans to Canada, forming a group of 3,000 British loyalists seeking to relocate after the British defeat.¹⁰ Some African Americans were freed through Legislative Petitions because their owners were considered to be enemy collaborators during the war.¹¹ Some African Americans who remained enslaved began to seek legal remedies to broken promises of manumission and worked with 18th century abolitionists to test the filing of Writs of Habeas Corpus. This paper will highlight manumission cases pending before the New Jersey Supreme Court between 1775 -1808.

In my college classrooms, the word “freedom” is the word of choice by students. The word “liberty” can be erased from the Revolutionary War period during these classroom discussions. Regardless of this revisionism, however, “liberty” is the keyword of the American Revolution. Current historical debates over the impacts of the American Revolution and Early Republic on the lives of citizens more often confront the intersection of the concepts of freedom and the lack of freedom as experienced by all persons living in the United States. Now is the time to reintroduce “liberty” and discuss its actual role in the lives of New

denied freedom until 1805 when Wright wrote that Sutphen finally had the money to purchase his freedom. See Gary B. Nash and Jean R. Soderlund for an analysis of manumissions in Philadelphia and Chester County. Gary B. Nash and Jean R. Soderlund, *Freedom by Degrees: Emancipation in Pennsylvania and Its Aftermath* (NY: Oxford University Press, 1991), 64, 83-84. Page four focuses on the religious affiliation of those manumitting slaves. Pages 83-84 note the occupational background of slaveholders and their records in manumission.

¹⁰ Ellen Gibson Wilson, *The Loyal Blacks* (New York: Capricorn Books, 1976). 74-78, 81-84, 104.

¹¹ Wright, *Breaking the Chains*, 130. *Cases adjudged in the Supreme Court of New Jersey relative to the manumission of Negroes and others holden in bondage* (Burlington: New Jersey Society for the Abolition of Slavery, 1774) <http://extext.virginia.edu/readex/27391.html>. Richard McCormick, *New Jersey from Colony to State, 1609-1789* (Cedar Grove: Rae Publishing Company, 1988), 161.

Jersey's African Americans in the area of manumissions and writs of habeas corpus.

This intersection provides a forum to investigate how liberties were or were not granted. Historian Seth Rockman has investigated the lack of freedom – call it “unfreedom” -- in the aftermath of the Revolutionary War as a new economic system expanded. Rockman's 2001 paper about American capitalism underscored the inconsistent interpretations and applications of freedom and liberty as perceived rights for all but shared by only some.¹² His new book, *Scraping By*, examined the promises unfulfilled in the Early Republic, and demonstrates that working-class whites, free blacks, runaway slaves, and small merchants all had dreams deferred because equality and liberty were severely limited in the changing world of Baltimore, Maryland.¹³

Looking through one of Rockman's historical lens, I have framed this paper as “testing” the concept of liberty through the examination of key New Jersey writs of habeas corpus and manumission cases before the state's Supreme Court. Our test involves assessing the effectiveness of these legal strategies to freedom for

¹² Seth Rockman, *The Unfree Origins of American Capitalism*, Library Company of Philadelphia Program in Early American Economy and Society Inaugural Conference The Past and Future of Early American Economic History: Needs and Opportunities, Philadelphia, April 20-21, 2001, 6. Seth Rockman, “Class and the History of Working People in the Early Republic,” *Journal of the Early Republic* Vol. 25, No. 4, (Winter 2005): 527-535. www.jstor.org.

¹³ Seth Rockman, *Scraping By: Wage Labor, Slavery, and Survival in Early Baltimore*, (Philadelphia: University of Pennsylvania, 2009), 49-53. This section addresses the challenges confronting by a free black man in Baltimore immediately following the Revolution, including the reality of being seen as a slave instead of a free black.

some New Jersey African Americans. I do believe some aspect of “liberty” was alive and well, as evidence by these rigorous legal engagements, but because of the very nature of the legal process, liberty is then only achieved by those few who can access the process.

Working with materials from the Historical Society of Pennsylvania collections (the Richard Waln Papers and the Pennsylvania Abolition Society Papers) and the New Jersey State Archives, the paper first highlights select sample writs of habeas corpus and manumission cases before the New Jersey Supreme Court from 1775-1783. *The King against Esther Barber and others*, one case resolved by the colonial government in 1775, showcases the state’s first case on the eve of the Revolutionary War. As the war progressed, cases were limited, and those that emerged first addressed the freeing of British slaves held as confiscated property by the victorious Americans. How did this civil society reconcile freeing the slaves of the enemy with the maintenance of slavery by its own patriotic citizens?

To the victor went the spoils. The Americans could free those or enslave those whom the British held as slave property during the Revolutionary War. Future research in the Pennsylvania Abolition Society Papers will yield greater insight into the number of slaves taken by the American forces and returned to slavery.

Finally, this paper will highlight a select number of post-1784 cases, usually involving slaves who were promised freedom in wills by dying masters and were sometimes denied their freedom by the heirs (wives or children) who disregarded the will. The Pennsylvania Society for the Abolition of Slavery (PAS), the New Jersey Society for the Abolition of Slavery, and/or New Jersey government filed paperwork claiming a violation of free black men's or women's rights because they were held against their will and categorized as slaves instead of free people. Three of the New Jersey manumission cases were resolved through legislation freeing slaves held by former Loyalists whose properties were confiscated as a result of the war. The cases were *Peter Williams, late the Property of John Heard*, 1784, *An Act for setting free Negro Prime*, 1786, and *An Act for setting Free Negro Cato*, 1789.¹⁴ The abolitionist publication, *Cases adjudged in the Supreme Court of New Jersey relative to the manumission of Negroes and others holden in bondage*, presents an important bridge for us to measure the limited and yet important legislative victories for freedom.

Ironically, many leaders and supporters of New Jersey and Pennsylvania abolitionist efforts to free slaves through writs of habeas corpus were Loyalists and Quakers, the people thought of as being on the losing side of the American Revolution because they sided with the British or remained neutral. One Quaker,

¹⁴ Axel-Lute, *The Law of Slavery in New Jersey*, A 68, A70, A72.

Richard Waln, was in the thick of the 1790 period manumission writs, and this paper will consider a few of his successful organizing efforts.¹⁵

The Early Cases 1775 – 1783

Often, manumission cases would involve the status of young African American children born to parents who had been freed under manumission arrangements. *The King against Esther Barber and others* marked an important moment in New Jersey legal history. As reported in *Cases Adjudged in the Supreme Court of New – Jersey: relative to the Manumission of Negroes and others holden in bondage*, a negro girl named Beulah was the daughter of two African-American slaves who had been freed by her Burlington City owner Caleb Haines. Under dispute was whether Beulah was born free or born a slave. At issue was a paperwork glitch, resulting in an investigation of whether or not manumission should stand for the daughter of freed slaves. Barber, who subsequently held Beulah, the child of the free blacks David and Dinah, was ordered to release Beulah from being “illegally detailed” and that “Beulah is entitled to her Freedom under the said Manumission against the said Caleb Haines, and all claiming under him.” Decided in the November 1775 term of the New Jersey Supreme Court, the case sided with the

¹⁵ A 2009 mini-grant from the New Jersey Historical Commission has funded much of my manumission investigations and the Richard Waln research.

African American child and resulted in her freedom.¹⁶ The second case highlighted briefly in the *Cases Adjudged* document noted that another African American named “Negro Will” was granted freedom from Jacobus Vanhuys on a writ of habeas corpus. This case was decided as the American Revolution wound down in April, 1782.¹⁷

The third case noted a successful writ of habeas corpus on behalf of Negro Nelly, who was order to be “set at Liberty” from Edmund Bainbridge. At issue was whether Negro Nelly, who had been formerly owned by Edmund Bainbridge “the elder” of Maidenhead (now Lawrenceville), was still a slave when given to Bainbridge’s daughter Abigail, who later freed Nelly. The will was to have said that if Abigail “should die childless, then the said Negro Nelly should be sold.” Interestingly, if Abigail survived her husband and father, and Negro Nelly was to be presented as a gift. Abigail had desired that Negro Nelly “should be manumitted and set free, a thing which she had very much at Heart.” Although unclear, at some point Negro Nelly had been moved to Pennsylvania during the time that the March 1780 Gradual Abolition of Slavery law had passed, and it

¹⁶ The New Jersey-Society for Promoting the Abolition of Slavery, *Cases Adjudged...*, 7. One might consult two excellent sources on manumission cases. M.M. Pernot, editor. *Freedom Papers: 1776-1781* (Burlington: Burlington County Historical Commission, 1964). *Manumission Book of Monmouth County New Jersey: 1791-1844* (Freehold: Office of the Monmouth County Clerk, 1992).

¹⁷ The New Jersey-Society for Promoting the Abolition of Slavery, *Cases Adjudged...*, 8.

appeared that Nelly was in the possession of Bainbridge's son. According to the court summary, the slave in question had not been registered with government officials as the act required, which presented a legal loophole. Because Negro Nelly had not been registered as a slave in Pennsylvania, and because Abigail's will required that the young African American woman be manumitted, the Supreme Court unanimously ordered that Negro Nelly be set free.¹⁸

Another six cases were successful, bringing the total of published victorious judgments from 1775 to 1783 to nine.

The aforementioned cases were published by the NJ Abolition Society's 1794 publication listing its victories. Just over 30 cases outlined freedom for several African Americans, including several cases from Monmouth County. Four cases involved the researching skills of New Jersey Quaker abolitionist and Upper Freehold resident Richard Waln. Although his name is not in the published court records, through researching the PAS, Richard Waln Papers, and the Marian S. Carson Collection, I have pieced together Waln's involvement, which will be highlighted later in this paper.

¹⁸ The New Jersey-Society for Promoting the Abolition of Slavery, *Cases Adjudged*...8-9.

The Slave of My Enemy Can be Freed! The Case of Negro Prime

The New Jersey legislature voted to manumit Negro Prime and “set [him] free from Slavery and Servitude” because he was the “late the property of Absalom Bainbridge” of Princeton who had supported the British cause during the Revolutionary War. According to the November 21, 1786 document, Bainbridge, a traitor, had his estate “forfeited and confiscated” and because Negro Prime was part of the property seized, this New Jersey slave asked that he might be set free. The Legislature agreed by “extending the Blessings of Liberty.”¹⁹

For slaves who were part of the enemy’s estate, the post-Revolutionary period in New Jersey held some promise, because they could be granted freedom – depending, that is, upon the mood of the Legislature.²⁰

The Case of Peter Williams

On September 1, 1784, the General Assembly voted to free a “Negro Man” who named himself Peter Williams because he had deserted his Loyalist owner John Heard during the Revolutionary War. Heard brought Williams into battle

¹⁹ Wright, *Breaking the Chains* 130. Wright refers to the Prime case, but the investigation into the legislative action yields great detail. New Jersey Abolition Society, *Cases Adjudged*, 15-16. See also *Petition of Prime for Manumission (1786)*, New Jersey AAH Curriculum Guide Resource Page, www.njstatelib.org/NJ_information/Digital/Collections/AAHCG/prime.html, accessed on August 14, 2009. See Paul Axel-Lute, “The Law of Slavery in New Jersey: An Annotated Bibliography” The New Jersey Digital Legal Library, 2005. A70, A72, <http://njlegallib.rutgers.edu/slavery/bibliog.html>.

²⁰ Paul Axel-Lute, “The Law of Slavery in New Jersey: An Annotated Bibliography” The New Jersey Digital Legal Library, 2005. A78, A70, A72, <http://njlegallib.rutgers.edu/slavery/bibliog.html>. A70, An Act for setting free Negro Prime, www.njlegallib.rutgers.edu/slavery/acts/A70.html. accessed on June 18, 2009.

when they joined the British army. According to the record, Williams deserted Heard and joined the Continental Army where he fought for the duration of the war. At the end of the war, John Heard's property was seized and Williams, still a slave, was taken as well. Upon examination, Williams received freedom due to his having been a slave of an active member of the enemy. More than anything, it appears that the status Williams held as a slave of a member of the enemy resulted in his freedom, and less his role as a member of the Continental Army.²¹

The Waln Connection – An 18th Century Quaker Abolitionist

Richard Waln was responsible for the background research on four successful New Jersey writs of habeas corpus cases before the New Jersey Supreme Court that manumitted four African Americans: Negro Silas and Negro Jack, and, thanks to the precedent set in the Negro Silas case, freedom was secured by Negro Agnus and Negro Rachel.

Waln, a Quaker, was born in Philadelphia in 1737 and became a vocal and effective advocate on behalf of the manumission of African Americans in New Jersey after he relocated to Walnford (now Upper Freehold Township). In a letter

²¹ Wright, *Breaking the Chains*, 130. A68, An Act for setting free Peter Williams, a Negro, late the property of John Heard, njlegallib.rutgers.edu/slavery/acts/A68.html.

to Quaker printer Isaac Collins in 1793, Waln discussed how a “spirit of benevolence” could lead others to join the anti-slavery cause and so be rewarded with “the most delightfull [sic] feelings of the Human Heart”²²

While Waln became an important figure in New Jersey’s abolitionist history, the roots of his activism can be traced his years in Philadelphia. One of his ancestors, Nicholas Waln, was a Quaker merchant who joined William Penn in founding Pennsylvania. Historians Gary Nash and Jean R. Soderlund have suggested that as the Philadelphia markets grew during the colonial period, affluent Philadelphians kept some slaves as a status symbol while small slaveholders who were artisans, shopkeepers and other entrepreneurs freed their slaves.²³ The young Richard Waln worked with his uncle Robert Waln and operated a successful sundries business on Water Street between Arch and Race Streets in Philadelphia.²⁴ Author Joseph Carson described young Waln’s mishaps when pirates and privateers captured his brig *Rebecca*, but the author did not delve into Waln’s abolitionist inclinations.²⁵ Waln’s ships, when not taken at sea, traveled to Barbados, Jamaica, Granada, London, back to Philadelphia, and to North Carolina.

²² Richard Waln Papers, 1651, Richard Waln Letters, Letterbook 1766-1794, Box 1, Letter to Isaac Collins from Richard Waln, 1 mo. 14, 1793, Historical Society of Pennsylvania.

²³ See Gary B. Nash and Jean R. Soderlund, *Freedom by Degrees: Emancipation in Pennsylvania and Its Aftermath* (New York: Oxford University Press, 1991), 83-85 for an outstanding discussion of class differences in the greater Philadelphia region.

²⁴ Joseph Carson, *The Surprising Adventures of the Brigantine Rebecca: Incidents in the West India Trade of 1762* (Worcester: The Davis Press, Inc. for American Antiquarian Society, 1950), 270. Included in the Office of the Historic Services Library, Monmouth County Parks.

²⁵ Carson, *The Surprising Adventures of the Brigantine Rebecca*, 272, 287, 299. Helpful commentary about the impact of privateering on Waln’s business operations, and general and specific business practices by Waln.

In March 1759, when Waln was 22 years old, he hired two “Negro” men for cargo work, something he would continue to do in Barbados and in the Philadelphia region.²⁶ What is sometimes unclear from the listing is whether or not the “Negro” men listed are slaves or free men. In December 1762, Waln wrote to William Dury, a Barbados merchant, and shared with him “a pamphlet by Woolman on negro keeping.”²⁷ Of course, this Woolman is the itinerant preacher and New Jersey Quaker abolitionist John Woolman. On December 6, 1764, Waln wrote to Robert Wilson, one of his business associates, and admonished him for unclaimed rum that belonged to Captain Golley or an undetermined other and for which the rum was unpaid and still in Waln’s storage. Furthermore, Waln wrote about clerk “errors” that Waln’s ship may have been involved in selling Africans as slaves. Waln explained that he would not tolerate any person “shipping negroes” on his boat and that he would not allow any sale of a slave because he believed that a slave had “never forfeited their Liberty.”²⁸ Waln might have been referring to his Barbados 1760 ledger, which includes a reference to a sale of a “negro girl.” The entry was crossed out.²⁹

²⁶ Richard Waln Papers, 1651, Richard Waln Letterbook 1759, Box 1, 6, Historical Society of Pennsylvania. Upside down text with a listing of “negro” men hired.

²⁷ Richard Waln Papers, 1651, Richard Waln Letterbook 1762-1766, Box 1, Richard Waln to Dear Brother, May 8, 1759, Historical Society of Pennsylvania. Richard Waln Papers, 1651, Richard Waln Letterbook 1762-1766, Box 1, Richard Waln to William Dury, December 12, 1762, Page 2, Historical Society of Pennsylvania.

²⁸ Richard Waln Papers, 1651, Richard Waln Letterbook 1762-1766, Box 1, Richard Waln to Robert Wilson, December 6, 1764, Pages 2-3, Historical Society of Pennsylvania.

²⁹ Richard Waln Papers, 1651, Richard Waln Barbados Ledger, Book 2, Box 10, Feb. 28, 1760 entry. It is difficult to read whether the number is 28 or not. This discussion and the record of Waln’s sale of his wife’s slave

Waln and his brother, Nicholas, corresponded on controversial issues of the day. Nicholas Waln lived and studied in London in the early 1760s. Their letters focused on mercantile issues related to duties on imports, and in 1763, Nicholas wrote Richard in anticipation of the passage of taxes on molasses, tea, and sugar. Nicholas noted that there was talk likewise of a Stamp Act to apply to Pennsylvania and New Jersey.³⁰ In another letter, Nicholas discussed the Robin Hood Society's meeting to address slavery throughout the British empire in 1764.³¹

Richard Waln was listed as a New Jersey member of the Pennsylvania Society for the Promoting the Abolition of Slavery (PAS) during its incorporation in 1789.³² Waln actively supported the work of the PAS in attempting to free African Americans held against their will in New Jersey by providing background research to support manumission disputes and the filing of writs of habeas corpus. Waln signed a 1796 petition to the legislature demanding an end to slavery. His

(she inherited from her father) will be discussed in detail in a forthcoming article of the Historical Society of Pennsylvania.

³⁰ Richard Waln Papers, 1651, Box 7 Folder 1 Nicholas Waln to Richard Waln, 11 mo 18, 1764, Historical Society of Pennsylvania. Richard Waln Papers, 1651, Box 7, Folder 1, Nicholas Waln to Richard Waln, 1 mo 22, 1763, Historical Society of Pennsylvania.

³¹ Richard Waln Papers, 11 mo 18, 1764, Box 7 Folder 1 Nicholas Waln to Richard Waln, Historical Society of Pennsylvania

³² *Act of Incorporation and constitution of the Pennsylvania Society for Promoting the Abolition of Slavery and for the relief of free negroes unlawfully held in bondage, and for improving the condition of the African race* (Philadelphia: Merrihew and Thompson, 1860), 5 Birney Anti-Slavery Collection, http://www.archive.org/stream/actofincorporati00penn/actofincorporati00penn_djvu.txt.

was the last name on the petition – above his name is that of an African American petitioner, Minto Lesage (the words “by negro” follows Minto’s name).³³

His activism is consistent with Quaker petitions from the period. For example, Quakers from New Jersey, Pennsylvania, Delaware, and Maryland petitioned New Jersey’s Governor and Legislature on November 11, 1792, on behalf of the “oppressed condition of thy African Race.” The petition quoted the New Testament gospel of Matthew as a warning to public leaders who would not act on behalf of the state’s slaves: “Therefore all Things whatsoever ye would that Men Should do to you, do ye even to them, for this is the Law and the Prophets.”³⁴

According to Richard Newman’s scholarship on the origins of the PAS, the Society’s incorporation in 1789 was important because it marked the beginning of a new front in the fight against slavery, as members assisted African Americans held against their will in the filing of legal writs to force the court to investigate wills, contracts and other materials to determine if free persons were being held against their will illegally.³⁵ In particular, the writs of habeas corpus were strategic

³³ BAH Manuscript Collection, New Jersey State Archives, Petition of Monmouth County residents supporting abolition of slavery in 1796, Box 1-16.

³⁴ BAH Manuscript Collection, New Jersey State Archives, a Petition of Quakers in New Jersey, Pennsylvania, Delaware and Maryland to the Legislature advocating the Abolition of slavery on November 11, 1792, Box 1-16, Item 53.

³⁵ Richard S. Newman, “The Pennsylvania Abolition Society: Restoring a Group to Glory” Vol 5, Number 2 (November 2005): 6-10. Richard S. Newman, *The Transformation of American Abolitionism: Fighting Slavery in the Early Republic* (Chapel Hill: The University of North Carolina Press, 2002), 20-21.

tools in the fight for freedom.³⁶ Newman wrote about the case of “Negro Silas” who was described as a “former New Jersey slave who had been sold contrary to an indenture agreement with his master.” Noting that once “his family” located him, a writ of habeas corpus was drawn up, the New Jersey Supreme Court investigated the case, and Silas became free black man.³⁷ The case is recorded under the Court’s September 1790 term.³⁸ According to the PAS Acting Committee minutes, Richard Waln was directly involved in the research on Negro Silas, Negro Betty and Negro Nelly cases.³⁹ Newman noted that because the PAS exemplified “Pennsylvania-style privatism in action,” its decision to represent “blacks in court and drafting legislative petitions” marked a significant change in tactics.⁴⁰ While the PAS was working to monitor faulty indentures with masters and hiring out contracts, Newman noted that abolitionists came to see the “law as a guide to activism.” In order to fight laws, Newman argued, the PAS adopted a strategy to draw on legal rights embedded in the American judicial system.⁴¹ Newman noted that men like Thomas Harrison, a member of the PAS, followed up on tips to travel to Pennsylvania, New Jersey, Maryland, and Virginia to check on

³⁶ Newman, *The Transformation of American Abolitionism*, 74-75.

³⁷ Newman, *The Transformation of American Abolitionism*, 74-75.

³⁸ New Jersey Abolition Society, *Cases Adjudged*, 25-26.

³⁹ Acting Committee Minutes, PAS, 490, AMS.042, 1789-1797, 6 mo. 9, 1790, 86-87, Historical Society of Pennsylvania. Acting Committee Minutes, PAS, 490, AMS.042, 1789-1797, 11 mo. 7, 1792, 248, Historical Society of Pennsylvania. State of the Case of Negro Silas, PAS, 490, Box 4A, 2-183, Historical Society of Pennsylvania. Children of Betty Late with John Horsfold. Extra from the Minutes for the Acting Committee, Thomas Harrison. PAS, 490, Box 4A, 12 18 1792. What Newman did not mention was, according to the PAS Acting Committee minutes, Richard Waln was directly involved in the research on Negro Silas.

⁴⁰ Newman, *The Transformation of American Abolitionism*, 17, 20.

⁴¹ Newman, 85.

“fugitive slaves or to identify kidnapped free blacks in need of legal aid” among the key PAS activities.⁴² I found Harrison listed as note taker and recorder in the PAS Acting Committee minutes for the Negro Silas case and others, and he took notes that included references to Richard Waln’s advocacy.

VII. The Cases of Negro Silas, Negro Betty and Negro Nelly, and Negro Jack

Waln received a letter from James Pemberton, President of the Pennsylvania Abolition Society, in 1790, thanking him for his “humane and spirited Exertions, in the Cause of Negroe Silas. When Men of acknowledged Worth thus step forth in the Cause of the Oppressed Africans, it affords additional encouragement to our Society to persevere in their arduous undertaking, by inspiring hopes that the endeavors to abolish Domestic Slavery will finally be crowned with success, and thus great National Iniquity be this forever removed from amongst the People of the United States.”⁴³

Negro Silas filed a writ of habeas corpus and was brought before Chief Justice Kinsey and Justice Smith of the New Jersey Supreme Court. The Justices determined that Silas was not a slave but “Borne Free and was the Issue of a Negro Female Slave of John Horsfield who by will Directed his [sic] to serve for a limited time.” The document goes on to note that the owner instructed his executor to sell

⁴² Newman, 31.

⁴³ Richard Waln Papers, Letter from James Pemberton to Richard Waln, 1651, Folder 3, Box 26, 11th Month, 8, 1790, Marian S. Carson Collection, Library of Congress.

his Negro “Betty and my Negro Nelly for the term of fifteen years and then to be free...”⁴⁴

According to the PAS notes, when Betty and Nelly were almost 15 years of age when their owner died and they were sold. The report noted that Silas was sold about four years earlier for 100 pounds. When Betty was sold, she already had several children and they were enslaved. Elias Boudinot and James Patterson of New Jersey argued the case. Silas was freed by a writ of habeas corpus. The argument for the Plaintiff, in this case Silas, was that “no child of a servant could become a Slave.”⁴⁵

In this later document, the summary in the PAS files indicate that the children of Negro Betty were left free by the will of John Horsfold, and yet the children still remained slaves. The text reads, “Richard Waln – being lately in Philadelphia informed that at the Last Supreme Court of that State – the case was tried and – the children were Declared Free.”⁴⁶ (Note that the spelling of the late slaveholder keeps changing in documents.)

⁴⁴State of the Case of Negro Silas, 2-183, September 1790. PAS Papers, 490, Box 4A, Folder papers and related documents court cases in which there were awards for freedom, Historical Society of Pennsylvania.

⁴⁵ State of the Case of Negro Silas, 2-183.

⁴⁶ The date is 12 mo 19, 1792. Children of Betty late of Jonathan Horsfold 3-174, PAS Papers, 490, Box 4A, Folder papers and related documents court cases in which there were awards for freedom, 1791-1794, Historical Society of Pennsylvania. In the text, the Court indicated that those holding Negro Betty’s children illegally were persuaded not to take the matter to an appeals court.

While the document notes that Waln returned to live in Philadelphia by this time, the case was not decided in Philadelphia but New Jersey. Thomas Harrison is listed as the minute taker for the PAS Acting Committee, and his writing is the same as the Negro Silas report from the earlier volume.

In the PAS Acting Minutes for 1790, Waln is listed as providing key information on the Negro Betty case involving her children. Recognizing Harrison's writing, I found an entry written by him that is entitled "Letter Richard Waln New Jersey" and the sub-heading is "John Horsfold N. Jersey." Note that Horsfold is another misspelling.⁴⁷

Waln sent a letter on May 5, 1790 indicating that John Horsfuld (note another misspelling) "of Upper Freehold, Monmouth Co" issued his last will and directed his executors to sell his "Negros [sic] Betty and Nelly for a term of 15 years and then to be free." The writing notes that the "children borne after the death of the testator and before their servitude expired are all held in slavery." The document reports that Waln wrote a letter to Elias Boudinot and received an opinion that Boudinot would support their manumission claims.⁴⁸ The matter would be tried before the next Supreme Court in the form of a writ of habeas

⁴⁷ Acting Committee Minutes, PAS, 490, AMS.0412, Acting Minutes, 1789-1797, 6 mo. 9, 1790, 86-87, Historical Society of Pennsylvania. In this piece Horsfold is spelled two ways.

⁴⁸ Acting Committee Minutes, PAS, 490, AMS.0412, Acting Minutes, 1789-1797, 6 mo. 9, 1790, 86-87, Historical Society of Pennsylvania.

corpus, and Boudinot hoped that the Pennsylvania Society would support the case at the time of trial.⁴⁹

Waln wrote to Congressman Boudinot for advice on two cases:

- a. Negro Betty's status and whether children born of a free black woman or a woman who would be free after 15 years are considered to be slaves.
- b. Negro Cuff's status as Waln noted that he was sold by the Sheriff and instead should be free.⁵⁰

Waln used powerful language as he expressed hope that Boudinot will intervene in a manumission dispute. Initially, Waln described "a Negro Woman" who was promised to be free after being sold for 15 years. He did not mention Slave Betty by name, but he surely must have been referring to her because of the 15-year reference. This case would involve Negro Silas who successfully petition the New Jersey Supreme Court for freedom, with Boudinot as his attorney. Waln explained that the woman's children continued to be slaves of the person who purchased the mother, and he asked if the sale of the children could be considered legal.⁵¹

⁴⁹ Acting Committee Minutes, PAS, 490, AMS.0412, Acting Minutes, 1789-1797, 6 mo. 9, 1790, 86-87, Historical Society of Pennsylvania.

⁵⁰ Richard Waln Papers, 1651, Box 1, Letterbook, Waln letters 1766-1794, Richard Waln to Elias Boudinot, Walnford 4 mo. 17, 1790, 2 pages, Historical Society of Pennsylvania.

⁵¹ Richard Waln Papers, 1651 Box 1, Letterbook, Waln letters 1766-1794, Richard Waln to Elias Boudinot, Walnford 4 mo. 17, 1790, 2 pages, Historical Society of Pennsylvania. Boudinot is not mentioned as the attorney for Negro Silas in the Cases Adjudged Publication; in the PAS 1790 summary of the Negro Silas case, Boudinot is listed as his attorney.

Crucially, the *Cases Adjudged* document links the outcome of the Negro Silas dispute to the case of Negro Agnes in Monmouth County.⁵² Negro Agnes was freed based on court actions when it ordered Negro Silas freed from being held by James Anderson in its ruling during the September term, 1790. By specifically including the Negro Silas case reference, the court indicated that the manumission disputes and questionable circumstances leading to the illegal custody of the African Americans in question were similar.⁵³ Additionally, Negro Rachel received her freedom from the New Jersey Supreme Court when it was decided that her detainment by William Laird was similar in circumstances to the decision in the James Anderson case involving the freedom of Negro Silas by a writ of habeas corpus. Negro Rachael was freed during the September 1792 term.⁵⁴

Waln must have known the Anderson family in Upper Freehold. According to tax records, Abraham Anderson, James Anderson and Lewis Anderson owned a combined acreage of more than 300 acres of land between 1780 and 1808. They also owned slaves: Abraham, one; and James and Lewis each owned one slave in

⁵² NJ Supreme Court Case 37221, *The State v. Negro Agnes (Covenhoven)*, New Jersey State Archives, NJ Supreme Court Case 34543 *State v. Covenhoven Monmouth Habeas Corpus in Manumission*.

⁵³ The New Jersey-Society for Promoting the Abolition of Slavery, *Cases Adjudged*, 31. In the case summary, Agnes is spelled Agnus. Again, there is inconsistent spelling of her name.

⁵⁴ The New Jersey-Society for Promoting the Abolition of Slavery, *Cases Adjudged*, 25, 26, 31. See also *Betty v. Horsfeld*, Philadelphia 1792. <http://www.hsp.org/default.aspx?id=1188>. Inside this file, here is another spelling of the former slaveholder's name different from the heading: Horsfield. The file was sometimes mislabeled as *PAS v. Richard Waln*, Philadelphia 1792 (accessed on July 25, 2010). New page entry as of March 28, 2012, <http://hsp.org/history-online/digital-history-projects/pennsylvania-abolition-society-papers/habeus-corpus-actions/betty-v-horsfeld-1792> Waln's role on behalf of the slaves is mentioned in this PAS file and the PAS minutes cited throughout the author's article. See also http://hsp.org/sites/default/files/legacy_files/migrated/bettywalnformatted.pdf

1780, 1789 and 1792. Waln did not hesitate to take on his neighbors and gather the necessary intelligence to result in writ filings. On the Upper Freehold tax records, the name “Anderson’s, Bill or “Anderson, Bill” is listed as one of the free negroes on tax records for 1789, 1796 or 1797. Silas is not listed. There is a “Negro Silas” or Silas that does appear on Waln’s records as a paid employee who is also offered credit. It is yet to be determined if Waln employed Negro Silas before or after he was freed. A Negro Silas worked for Waln on the Walnford plantation for about several days in 1790.⁵⁵ More research must be conducted to connect the African American workers on Waln’s plantation to those African Americans with the same names who involved in manumission disputes.

Waln was also involved in a case involving Negro Jack. The slave’s master died, and so Jack was sold by the Sheriff of Monmouth County and purchased by the master’s son. The son, according to Waln, promised that Jack could be free once he repaid by his labor the purchase price of 83 pounds. Jack did just that, and then was betrayed by the owner, who sold Jack to Tobias Hendrickson of Monmouth County. Jack had a wife and five children, all of whom were slaves. Waln, in a letter to Congressman Boudinot, asked: “should not, if the Negro is

⁵⁵ Richard Waln Papers, 1651, Rough Ledger 1790-1799. Box 13. Historical Society of Pennsylvania.

illegally held – the present Master pay for his Time.”⁵⁶ Boudinot’s reply to this letter does not appear to be in the Richard Waln Papers, so the initial strategies cannot be investigated.

Thanks to Waln’s advocacy, however, the Supreme Court freed Jack from the custody of Tobias Hendrickson in the May term, 1790.⁵⁷

A Natural Right to Liberty... and Freedom

The language of “liberty” and “freedom” was contagious during and following the Revolutionary War. The application of liberty and the recognition – by some -- of African Americans’ natural right to liberty forced new public policy and legal strategies to be raised through strategies including petition drives, meetings, conventions, and reports on abolition, manumission, ending the slave trade and related issues targeting elected officials in state and federal government and the general public. Legal strategies, conceptualized and implemented by the Pennsylvania Abolition Society, delivered successes before the New Jersey Supreme Court. The ordinary men and women who wanted freedom joined with

⁵⁶ Richard Waln Papers, 1651, Box 1, Letterbook, Waln letters 1766-1794, Richard Waln to Elias Boudinot, Walnford 4 mo. 17, 1790, 2 pages, Historical Society of Pennsylvania. See also, New Jersey Society for Promoting the Abolition of Slavery, *Cases Adjudged*, 24.

⁵⁷ New Jersey Society for Promoting the Abolition of Slavery, *Cases Adjudged*, 24.

18th century Quaker and non-Quaker abolitionists to push New Jersey courts and laws to their limits. Not every case could be won, but this moment of abolitionist activity was built upon the enforcement of laws to ensure the freedom of newly free blacks or those slaves who were promised freedom but subsequently were denied that promise. The combination of legal writs, citizen petitions, enlightened advocacy for liberty and equality, and the sheer courage to face one's slave master in court brought "freedom" to new corners of New Jersey and helped in the expansion of the state's free black communities in the Early Republic.

One final story illustrates the intersection of freedom, liberty and slavery, and how African Americans and Caucasians worked together in search of freedom. In 1788, Waln corresponded with the Friends of Egg Harbor regarding the continued slavery a child of a "negro woman that was set free" by deceased Mr. Ridgway. Waln argued that the child, named Cuff, should now be set free. Cuff, Waln noted, was 24 years old and had the "Character of being Honest." In Waln's opinion, Cuff was being deprived of "his natural Right to Liberty."⁵⁸

For those slaves or free blacks who were fortunate to find abolitionist allies to underwrite the cost of writs of habeas corpus for manumission, liberty could sometimes be secured. For those without the resources and contacts, liberty

⁵⁸ Richard Waln Papers, 1651, Box 1, Bound Book Waln Letters 1766-1794, Letter from Richard Waln to John Gaunt of Friends of Egg Harbor Monthly Meeting, November 14, 1788, Historical Society of Pennsylvania.

remained elusive because freedom did not come easily or, in fact, at all. With the example of Richard Waln, we can better understand how members of the PAS worked to gather invaluable information that would determine whether or not the PAS would underwrite court costs in manumission cases.

This freedom story, built on a “natural right to Liberty” will continue to be told as more scholars and students unearth lost stories. I too salute the memory of the runaway slaves and freed blacks denied their liberties and herald them as among the true heroes and patriots in the early Republic.