

---

---

# “The Whole North Is Not Abolitionized”

Slavery’s Slow Death in New Jersey, 1830–1860

JAMES J. GIGANTINO II

---

---

In 1841, black residents of Paterson, New Jersey called the state legislature’s “attention to the disabilities, privations, and sufferings under which the colored population of our state labor.” They discussed slavery’s continued presence in New Jersey and argued that “we cannot conceive of a reason, either legal, moral, or physical, why young people of African descent should not be” free at birth. The Paterson blacks decried the state’s gradual abolition system because it provided children no effective education, leaving residents to “look upon the servants for years . . . as slaves so long as they remain under age, slaves to all intents and purposes.” They called for the manumission of all Jersey slaves and for the freedom of all children born under the gradual abolition law because they believed slavery’s continuation influenced “the unjust prejudice which exists in the white population against” all blacks.<sup>1</sup>

The Paterson group’s complaints highlight the slowness of abolition in New Jersey. The 1804 Gradual Abolition Act, like similar laws in other states, granted freedom to children born to slaves after July 4, 1804, once they served their mother’s master for twenty-five years if male or twenty-one years if female. These children opened a fluid boundary between slavery and freedom that slaveholders exploited with little resistance. Therefore, instead of starting from a presumption of freedom,

---

James J. Gigantino II is an assistant professor of history at the University of Arkansas. He is the author of *The Ragged Road to Abolition: Slavery and Freedom in New Jersey, 1775–1865* (Philadelphia, 2014). He would like to thank Paul Polgar, Lucia McMahon, Daniel Sutherland, *JER*’s editors, and the three anonymous reviewers for their helpful comments and advice on this article.

1. *Address to the Legislature of New Jersey in Behalf of the Colored Population of the State by Citizens of Paterson* (Paterson, NJ, 1841).

*Journal of the Early Republic*, 34 (Fall 2014)

Copyright © 2014 Society for Historians of the Early American Republic. All rights reserved.

masters, slaves, free blacks, and the law itself understood that anyone born to a slave after 1804 was a *slave for a term*.<sup>2</sup>

This contention challenges recent scholarship by James Oakes and Paul Polgar, who have celebrated the progressive elements of gradual abolition in the North, illustrating the relative elasticity of colonial definitions of race that allowed African Americans to advocate for citizenship. Instead, my work aligns more closely to Joanne Pope Melish and others who have emphasized the sluggishness of abolition and how colonial definitions of race and slavery slowly changed in the early republic. I argue that in New Jersey, gradual abolition progressed even more slowly than in New England and was not complete until after the Civil War. Therefore, Jersey slaveholders still found slavery and bound labor important as the sectional crisis unfolded. This made New Jerseyans markedly different from the New Englanders examined by Melish. Those New Englanders hoped to disown their slave past and create an imagined North free of slavery in contrast to an enslaved South. New Jersey's border position with the South forced white New Jerseyans to consistently engage with the institution, making it difficult to forget. The failure to forget slavery, combined with a rather conservative abolition movement, caused white New Jerseyans to express little interest in crafting new societal roles for children born after 1804. Not seeking to disown but rather to extend slavery, Jersey masters saw few differences between these children and their parents during their period of servitude.<sup>3</sup>

---

2. I see slavery in New Jersey on a continuum where the institution took forms other than chattel slavery. In this way, I differ from other historians who have seen these children resembling indentured servants or apprentices—New Jersey law specifically separated them from white bound laborers and linked them with slavery. For flexible definitions of slavery and freedom in the Atlantic context, see Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge, MA, 1985); Peter Kolchin, "Variations of Slavery in the Atlantic World," *William and Mary Quarterly* 59 (July 2002), 551–54; John Donoghue, "Out of the Land of Bondage: The English Revolution and the Atlantic Origins of Abolition," *American Historical Review* 115 (Oct. 2010), 943–57; Seymour Drescher, *From Slavery to Freedom: Comparative Studies in the Rise and Fall of Atlantic Slavery* (New York, 1999); Paul Lovejoy and Jan Hogendorn, *Slow Death for Slavery: The Course of Abolition in Northern Nigeria, 1897–1936* (Cambridge, UK, 1993).

3. Paul Polgar, "'To Raise Them to an Equal Participation': Early National Abolitionism, Gradual Emancipation, and the Promise of African American Citizenship," *Journal of the Early Republic* 31 (Summer 2011), 229–58; James Oakes, *Freedom National: The Destruction of Slavery in the United States, 1861–1865*

By 1830, the presence of a significant bound black population vividly displayed the wherewithal of Garden State slavery. One in ten African Americans remained slaves for life, and all males born to slaves after 1805 and all females born after 1809 (literally almost all born under the gradual abolition law) continued to serve as slaves for a term. Therefore, an estimated quarter of New Jersey's 1830 black population remained in some form of unfree labor. This challenges how previous historians have understood the first emancipation. Even those historians who have

---

(New York, 2013), 11–12. For prevailing views of northern slavery, see Ira Berlin, *Many Thousands Gone: The First Two Centuries of Slavery in North America* (Cambridge, MA, 1998); and Berlin, *Generations of Captivity: A History of African-American Slaves* (Cambridge, MA, 2003). The original and still a remarkably influential work is Arthur Zilversmit, *The First Emancipation: The Abolition of Slavery in the North* (Chicago, 1967). The first work to deal substantially with the process of gradual abolition was Shane White, *Somewhat More Independent: The End of Slavery in New York City, 1770–1810* (Athens, GA, 1991). One of the most important recent works is Joanne Pope Melish, *Disowning Slavery: Gradual Emancipation and "Race" in New England, 1780–1860* (Ithaca, NY, 1998), 88–89. Other influential works include Gary Nash and Jean Soderlund, *Freedom by Degrees: Emancipation in Pennsylvania and Its Aftermath* (New York, 1991), 175–78; Margot Minardi, *Making Slavery History: Abolitionism and the Politics of Memory in Massachusetts* (New York, 2010), 36–41; David Gellman, *Emancipating New York: The Politics of Slavery and Freedom, 1777–1827* (Baton Rouge, LA, 2006); David Menschel, "Abolition Without Deliverance: The Law of Connecticut Slavery 1784–1848," *Yale Law Journal* 111 (Oct. 2001), 183–222; and Lois Horton, "From Class to Race in Early America: Northern Post-Emancipation Racial Reconstruction," *Journal of the Early Republic* 19 (Winter 1999), 629–49. The following focus more on the time after freedom instead of the freedom process: Gary Nash, *Forging Freedom: The Formation of Philadelphia's Black Community, 1720–1840* (Cambridge, MA, 1988); Leslie Harris, *In the Shadow of Slavery: African Americans in New York City, 1626–1863* (Chicago, 2003); Erica Dunbar, *A Fragile Freedom: African American Women and Emancipation in the Antebellum City* (New Haven, CT, 2008); Leslie Alexander, *African or American? Black Identity and Political Activism in New York City, 1784–1861* (Urbana, IL, 2008). For works specific to New Jersey, see Henry Cooley, "A Study of Slavery in New Jersey," PhD diss., Johns Hopkins University, 1896; Graham Hodges, *Root and Branch: African Americans in New York and East Jersey* (Chapel Hill, NC, 1999); Graham Hodges, *Slavery and Freedom in the Rural North: African Americans in Monmouth County, New Jersey 1665–1865* (Madison, NJ, 1997); Kenneth Marshall, *Manhood Enslaved: Bondmen in Eighteenth- and Early Nineteenth-Century New Jersey* (Rochester, NY, 2011).

emphasized abolition's gradualism have argued that slavery declined rapidly by relying on two assumptions: first, that census data paints an accurate picture of slavery's demise; and second, that masters abandoned slavery in the face of its impending destruction. In actuality, both of these assumptions are false and hide a far more complicated picture of how northerners sustained slavery.<sup>4</sup>

After 1804, slavery and bound labor continued in the Garden State despite what census enumerators recorded. These enumerators relied on cloudy definitions of "slavery" and "freedom," leading many to record slaves as free, freed people as slaves, and slaves for a term as either free or slave. For example, a black woman named Catherine was recorded in both the 1840 and 1850 censuses as free, yet her master sold her as "a slave for life" in 1856. The same occurred in the 1830 census recording of the Johnson family. The census enumerator recorded Ann and Rufus as slaves two years after their master, Hannah Thomson, had granted them freedom. Likewise, two of their children, Mary and Matilda, were recorded as slaves, while their two sons, George and David, were listed

---

4. Melish, *Disowning Slavery*, 163; Minardi, *Making Slavery History*, 20–21. Births of slaves for a term were recorded at the county level in "Black Birth Books" now held at the New Jersey State Archives (NJSA). Birth records are incomplete for most counties, with some not having any remaining records. For this study, I added all births of males born from 1805 to 1830 and females born from 1809 to 1830. All of them would have been slaves for a term in 1830. The results are as follows by county: Bergen (792—records incomplete), Burlington (no records available), Cape May (no records available), Cumberland (no records available), Essex (227—records incomplete), Gloucester (8—records incomplete), Hunterdon (152—records incomplete), Middlesex (326—records incomplete), Monmouth (501), Morris (209), Salem (7—records incomplete), Somerset (672), Sussex (172). This yielded a total of 3,066 slaves for a term. Adjusting for an estimated 25 percent mortality rate, I estimate that at least 2,300 slaves for a term were alive in 1830, though it could be more as records are incomplete. In 1830, the Federal Census recorded 20,557 African Americans in New Jersey, which was 6.4 percent of the state's total population of 320,823. Although I believe the census incorrectly recorded slaves and slaves for a term, I hold that about 10 percent of the black population remained slaves for life, the same as the census estimates, since some slaves would have been recorded as free and some freed people as slaves. The slave population would then be approximately 2,200. Adding the estimated 2,300 slaves for a term would yield 4,500 blacks in bound labor relationships. This would be 21.9 percent of the state's total black population, though it was likely more as records of slaves for a term are incredibly incomplete.

as free blacks, even though all lived as slaves for a term with the earliest gaining freedom in 1842. Digging deeper into manumission records, birth records for slaves for a term, tax lists, and probates shows that the censuses' usefulness declines as time advances, leading to my estimate that in 1830, about a quarter of the state's black population remained bound laborers instead of the 10 percent the census reported. However, this underreporting of non-freedom did not just occur in New Jersey; slavery survived elsewhere in the North, especially in Pennsylvania where distinctions between free, enslaved, and slaves for a term in census records caused the legislature in 1833 to investigate a reported 83 percent increase in the state's slave population from 1820 to 1830. The legislators felt that, in light of other northern states becoming freer, it was an insult that the "land of Penn, which took the lead in emancipation . . . should exhibit an increase of slaves," especially since their presence had "excited considerable attention even beyond the limits of our own commonwealth." After an extensive investigation, they found that census enumerators had incorrectly counted some slaves for a term and term slaves, those manumitted in Virginia, Maryland, or Delaware and brought to Pennsylvania as bound laborers, as slaves in twenty-seven counties. In reality, the enslaved population had actually declined from 211 in 1820 to 67 in 1830.<sup>5</sup>

If demographic records show slavery's survival in New Jersey, obviously masters did not quickly abandon it. Most evidence for this abandonment comes from responses to the aptly named "abandonment clause" imbedded in both New Jersey and New York's gradual abolition system. This allowed masters to surrender slaves for a term to the state

---

5. Bill of Sale for Catherine, Feb. 16, 1856 and Hunterdon County Manumission Book, 426–27, Hunterdon County Historical Society, Flemington, NJ; Johnson Family Records, Anderson Family Papers, New Jersey Historical Society, Newark, NJ; U.S. Census, 1830: Hardwick Township, Warren County, NJ Schedule, 440; Hodges, *Slavery and Freedom in the Rural North*, 150, 160–62 and 212; Robert Fogel and Stanley Engerman, "Philanthropy at Bargain Prices: Notes on the Economics of Gradual Emancipation," *The Journal of Legal Studies* 3 (June 1974), 392–93. For Pennsylvania, see *Report of the Committee Appointed in the Senate of Pennsylvania to Investigate the Cause of an Increased Number of Slaves Being Returned for that Commonwealth, by the Census of 1830, over that of 1820: Read in Senate, February 25, 1833* (Harrisburg, PA, 1833), 3–7; and David Smith, *On the Edge of Freedom: The Fugitive Slave Issue in South Central Pennsylvania, 1820–1870* (New York, 2013), 17–18.

to avoid caring for children destined for freedom at maturity. In practice though, the abandonment system supported compensated emancipation. New Jersey law required the state to pay three dollars a month to those who accepted the indenture of abandoned black children, a rule that masters quickly exploited. Most surrendered their slaves for a term and then accepted their indenture along with the state's monthly payment. This continued until 1811 when it collapsed under its own weight; almost 30 percent of New Jersey's budget went toward these children's care. After payments stopped, few masters abandoned their slaves for a term, a decision that mimicked treatment of slaves unaffected by gradual abolition. Previous historians have pointed to the substantial uptick in manumissions of these slaves to illustrate slavery's declining popularity in the North. However, county-level manumission records indicate that only about 15 percent of New Jersey's slaves were manumitted, and even those were mainly older slaves with limited economic value. Therefore, masters did not rush to abandon slavery. Instead, slavery in New Jersey, and in pockets of New York, Pennsylvania, and New England, survived and remained important into the antebellum period.<sup>6</sup>

This article explores how New Jerseyans, white and black, understood this continuation of slavery in the 1830s and 1840s and examines how national debates over the institution affected slavery's status in New Jersey. Two major issues in the late antebellum period forced white New Jerseyans to reconsider the institution's continued life. First, the rebirth of abolitionism in New Jersey in the 1830s gave whites and blacks an organized way to advocate for black freedom, one missing since the first abolition movement folded in the early 1810s. New Jersey therefore saw a relatively clean break between the abolitionism of the 1790s and that of the 1830s in a way that other northern states, as Richard Newman has argued, did not. Second, and most importantly, New Jersey's geographic position on the South's northern border forced it to deal with a rising number of fugitive slaves in the 1830s and 1840s. This constant engagement with southern fugitives reignited the debate about slavery's continuation in New Jersey.<sup>7</sup>

6. Zilversmit, *The First Emancipation*, 196–99; New Jersey Department of Treasury Day Books, Daybooks of Peter Gordon, Treasurer, Book Three, New Jersey State Archives, Trenton (hereafter NJSA).

7. Richard Newman, *The Transformation of American Abolitionism: Fighting Slavery in the Early Republic* (Chapel Hill, NC, 2002), 5–7.

I contend that the issues associated with fugitive slaves exacerbated white fears of the collapse of law and order—that southern slave catchers could violate their rights, invade their homes, and even kidnap their family members. This fear brought slavery to the forefront of statewide conversations, a place it had not occupied for decades. Jersey abolitionists latched onto these white fears and turned the conversation into one not just about fugitives but about the need to end domestic slavery in New Jersey. Therefore, the actions of southern fugitives opened the door for two distinct conversations: one on fugitive protections and the other on the status of the approximately 3,000 slaves and slaves for a term that lived in the Garden State in the mid-1840s. Despite their best efforts, abolitionists never convinced the general public to support immediate freedom for Jersey blacks or advanced strong protections for fugitive slaves as in other northern states. Nonetheless, the constant engagement with fugitive slaves did not allow New Jerseyans to forget their own domestic involvement with slavery and reinforced the state's measured approach to abolition. Jersey politicians routinely referred to their slave past in discussions on recovering southern fugitives, causing the state's own ongoing relationship with slavery to influence sectional issues.<sup>8</sup>

The conversations brought about by southern fugitives and resulting debates inside and outside the courtroom allowed white and black abolitionists to address slavery in New Jersey directly. It led legislators to finally abolish slavery in 1846, but influenced the course of that abolition; gradualist approaches based on past experience with abolitionism survived. Instead of freeing all bound blacks, the legislature abolished the legal term "slave" and reclassified all former slaves as "apprentices for life." They forced slaves for a term to continue serving their masters

---

8. Stanley Harrold, *Border War: Fighting over Slavery before the Civil War* (Chapel Hill, NC, 2010), 15, 30–34; Carol Wilson, *Freedom at Risk: The Kidnapping of Free Blacks in America, 1780–1865* (Lexington, KY, 1994), 90–109. The figure of 3,000 slaves and slaves for a term comes from *New Jersey Freeman* (Boonton), June 1845. Two articles in the same issue of the newspaper conflict on the total of slaves and slaves for a term. One article estimates 3,700 and the other 3,000. I acknowledge the lower estimate as I believe 3,700 is too high, since the 1840 census only lists 647 slaves and many slaves for a term gained freedom in the 1830s. The February, 1846 edition estimates between three and four thousand "persons are held in slavery, a part of them are held under the name of apprentices but all of them in reality slaves."

in order to maintain the racial balance and secure slaveholder property rights. This outcome shows that slavery was not easily vanquished in societies with slaves and demonstrates that slavery's persistence in the North had a tangible impact on how antebellum northern whites understood the sectional crisis. It disputes the contention that a monolithic "free" North stood in opposition to a "slave" South and shows that northerners understood slavery and freedom on a much more complicated continuum, rather than as polar opposites.<sup>9</sup>



After gradual abolition began in 1804, membership in the state abolition society declined, and a general lack of abolitionist enthusiasm forced it to fold in the early 1810s. As most members came from Quaker-dominated West Jersey, the waning of slavery there led most to turn away from the seemingly "solved" problem of Jersey slavery to focus on the Atlantic trade and the South. In addition, the lack of an urban center with a burgeoning free black population like New York or Philadelphia stymied abolitionists' ability to organize effectively. In addition, the distance between abolitionists in Quaker-dominated West Jersey and East Jersey slaves, the region where slavery remained strongest, limited abolition's reach. Pennsylvania Abolition Society and New York Manumission Society members did assist Jersey slaves, but even they were saddled with an aging and increasingly inactive membership. In 1817, for instance, the Pennsylvanians claimed that "many of our aged brethren have retired from the contest." They complained that among "our benevolent fellow citizens, an apathy prevails . . . the more to be lamented as we fear it is the result of a mistaken impression that work is nearly accomplished."<sup>10</sup>

Though inaction over slavery in New Jersey primarily came about due to organizational failures and the belief that abolition had already been accomplished, the institution's dramatic transformation in the early nineteenth century and expansion into the Old Southwest made white New

9. Harrold, *Border War*, 10–22; Smith, *On the Edge of Freedom*, 8–9; Berlin, *Many Thousands Gone*, 228–29.

10. Minute Book, June 30, 1817, Papers of the Pennsylvania Abolition Society, Historical Society of Pennsylvania, Philadelphia (hereafter HSP); Newman, *Transformation of American Abolitionism*, 5–7.

Jerseyans unsure of the similarities between slavery in the North and South. Issac Hillard, who helped recover kidnapped blacks, argued that northern slavery drastically differed from slavery in the South. In 1797, for instance, Hillard believed that slavery in the North "was not really slavery at all, because the statute gave existing slaves their freedom vicariously by enabling them to enjoy their children's certainty of delayed freedom." Gradual abolition had "inaugurated a new state of freedom immediately enjoyable by slaves and freeborn alike," making Connecticut, the state Hillard specifically spoke of, different from other slave states, a disparity that focused attention on the South and stymied support for abolitionism at home.<sup>11</sup>

In the 1820s and 1830s, however, the increasingly contentious issue of fugitive slaves brought slavery back into public view as New Jersey's position on the Mason-Dixon Line caused fugitives to spill into the state in great numbers. Northerners struggled with how to defend against unwanted incursions of slave catchers while fulfilling their constitutional responsibility to slaveholders. A national debate on fugitive slaves' rights led to Pennsylvania's 1826 law, which increased oversight of slave catchers and allowed suspected fugitives to defend themselves in court. New Jersey passed a similar personal liberty law that same year, giving slaveholders increased access to the judicial system.<sup>12</sup>

11. Robert Forbes, *The Missouri Compromise and Its Aftermath: Slavery and the Meaning of America* (Chapel Hill, NC, 2007), 38; Berlin, *Generations of Captivity*, 159-244; Adam Rothman, *Slave Country: American Expansion and the Origins of the Deep South* (Cambridge, MA, 2005), ix-36; Isaac Hillard, "To the Public" (1797?), 8-9, 15-16, Miscellaneous Manuscripts, Connecticut Historical Society, as cited in Melish, *Disowning Slavery*, 104-106 and 212; Smith, *On the Edge of Freedom*, 45.

12. Harrold, *Border War*, 57; Wilson, *Freedom at Risk*, 2-8, 30-35; Stephen Deyle, *Carry Me Back: The Domestic Slave Trade in American Life* (New York, 2005), 28-39; Walter Johnson, *Soul by Soul: Life Inside the Antebellum Slave Market* (Cambridge, MA, 1999), 31-33; Thomas Morris, *Free Men All: The Personal Liberty Laws of the North* (Baltimore, 1974), 17-28, 34-41, 44-52; "Supplement to an act concerning slaves," Acts 51<sup>st</sup> General Assembly, First Sitting, Dec. 26, 1826, NJSA; Paul Finkelman, "State Constitutional Protections of Liberty and the Antebellum New Jersey Supreme Court: Chief Justice Hornblower and the Fugitive Slave Law," *Rutgers Law Journal* 23 (Summer 1992), 753-87; Cooley, "A Study of Slavery in New Jersey," 34; Melish, *Disowning Slavery*, 83-88.

The 1826 law was important because New Jersey's Underground Railroad grew over the following decade. Conductors shepherded fugitive slaves from the southwest coast northeast toward New York City and eventually Canada. This well-trodden road allowed Quakers and free blacks in South Jersey to interact frequently with escaping slaves. African Methodist Episcopal (AME) churches in Springtown, Swedesboro, Gloucester, and Mount Zion all provided refuge to escapees while their congregations networked with AME Churches in Philadelphia and New York to find them other safe havens. However, Maryland fugitive Samuel Ringgold Ward, who made his escape through Springtown in the 1820s and later became an AME minister in New York, wrote in his 1855 narrative that he understood "New Jersey had not entirely ceased to be a slave state." Ward, like other escapees, according to Greenwich native Bessie Ayres Andrews, regularly traveled to Swedesboro, Mount Holly, or "were hidden for days in the colored settlement at Springtown." In Springtown, Ward's family found a sizeable black population living alongside friendly Quakers and no Jersey slaveholders.<sup>13</sup>

Fugitives' presence reopened debates over personal liberty and culminated in a landmark 1836 New Jersey Supreme Court case that mandated jury trials for suspected fugitives. Alexander Helmsly, also known as Nathan Mead, stood at the center of the case. He fled from Maryland to New Jersey, which he described, in contrast to Ward, as a place where the "people were free and nobody would disturb me." He worked for about nine years in Evesham and Northampton where he married and had three children. After a group of slave catchers discovered his status in October 1836, the sheriff arrested Helmsly. Pennsylvania Abolition Society lawyers defended him in front of Judge George Haywood, who Helmsly described as Virginia-born and "like the handle of a jug, all on one side and that side against me." Three whites and four blacks all

13. Giles Wright, *Afro-Americans in New Jersey: A Short History* (Trenton, NJ, 1988), 39–41; Dennis Rizzo, *Parallel Communities: The Underground Railroad in South Jersey* (Charleston, SC, 2008), 55–58, 76–88, 99–109; Carol V. R. George, *Segregated Sabbaths: Richard Allen and the Emergence of Independent Black Churches, 1760–1840* (New York, 1973), 135–59; Samuel Ringgold Ward, *Autobiography of a Fugitive Negro: His Anti-slavery Labours in the United States, Canada, and England* (London, 1855), 11–12, 25–26; Bessie Ayars Andrews, *Reminiscences of Greenwich* (Vineland, NJ, 1910), 31–32.

testified that Helmsly lived free in Burlington County, rebutting four whites who affirmed his slave status.<sup>14</sup>

In a shrewd propaganda move, abolitionists latched onto cases like Helmsly's and the widespread anxiety over slave catchers' presence in the state, popularizing the notion that the Lower North was under attack. These abolitionists used supposed southern disregard for state law to encourage what historian Stanley Harrold describes as "sectional antagonism," the frightening of whites into thinking that slave catchers disrupted law and order. One newspaper article described how in December 1836 in Salem, "five or six men with drawn pistols but no search warrant" broke into a local Quaker's home in search of a suspected fugitive. It asked its readers if "a set of kidnapping marauders be suffered thus to trespass upon quiet unoffending citizens . . . or is our lot cast in a region where lawless freebooters and midnight prowlers are the sovereigns of the country who may violate the sanctity of our private dwellings to carry men and women into southern bondage?" Many Jersey whites, fearful of being assaulted, began to see the unregulated activities of slave catchers as dangerous and against their interest in upholding order on slavery's border.<sup>15</sup>

Despite the support of locals, Judge Haywood ruled against Helmsly and ordered him returned to Maryland. Helmsly's lawyers appealed to the state Supreme Court where they argued against the constitutionality of New Jersey's 1826 personal liberty law on the basis that it did not ensure due process. In 1836, Chief Justice Joseph Hornblower, a colonizationist who supported gradual abolition, ruled in *State v. The Sherriff of Burlington* that a single judge could not decide the question of a man's freedom alone. Hornblower linked Helmsly's case to the court's decision earlier that year that overturned the requirement that blacks must affirmatively prove their free status; blacks were no longer *prima facie* slaves. Hornblower argued that the state constitution guaranteed both

14. Benjamin Drew, *A North Side View of Slavery: The Refugee, or the Narratives of Fugitive Slaves in Canada* (New York, 1868), 32–36, quotes on 34 and 36; Proceedings in the case of Nathan, alias Alexander Helmsly, 1835, Burlington County Court of Common Pleas, Unprocessed Loose Papers, Fugitive Slave Law Cases, NJSA; Finkelman, "State Constitutional Protections of Liberty," 759, 762–69.

15. *National Inquirer* (Philadelphia) Dec. 24, 1836 as cited in Harrold, *Border War*, 59–63.

Jersey-born slaves and fugitives certain due-process rights. As a question of fact, the identity of a fugitive slave and the decision to remove him or her into a state of slavery had to be decided by a jury, less a freeman be “separated forcibly and forever from his wife and children” or be “permitted to enjoy with them the liberty he inherited and the property he has earned.”<sup>16</sup>

Although he was careful to not rule that the 1793 Federal Fugitive Slave Law was unconstitutional, the Hornblower decision remade the idea of personal liberty and, coupled with the Court’s rejection of African Americans’ *prima facie* status that same year, indicated that the position of Jersey blacks was slowly changing. The growth of abolitionism and the increasing threat of attack from the South had challenged white New Jerseyans to see the necessity for state involvement in fugitive recoveries. This led to an 1837 law that authorized a three-judge panel to determine an alleged fugitives’ status with provisions for either side to request a jury trial. At the time of its passage, the 1837 law placed New Jersey at the forefront of the battle over personal liberty laws in the North and ensured the proper adjudication of fugitive cases on slavery’s border.<sup>17</sup>

In addition to legal protections, vigilance associations formed to protect African Americans from kidnappers and advocated “state pride and sovereignty” in defending New Jersey’s right to regulate fugitive recoveries. In 1839, a white Camden resident claimed, “we are tired of having our territory invaded by these myrmidons of the South. The day will come when the genius of liberty, planting her feet on Mason and Dixon’s line will say to these savage hunters of men ‘thus far shal lye go but no further’” after a group of slave catchers raided a small cabin near his home. Violent reactions against slave catchers likewise erupted across South Jersey. Bessie Ayres Andrews remembered that all slave catchers who “came to Salem to recapture their slaves . . . were glad to escape with their lives,” while Louisa Bryant, a black Springtown resident, claimed that “free people were always armed with their old flintlock

16. Finkelman, “State Constitutional Protections of Liberty and the Antebellum NJ Supreme Court: Chief Justice Hornblower and the Fugitive Slave Law,” 769–74, quote on 772.

17. *Ibid.*, 769–79, esp. 776, 779; *Colored American* (New York), Apr. 22, 1837; “A Further Supplement to an act entitled ‘An Act concerning slaves,’” February 15, 1837, Acts 61st GA, 2nd sitting, 134–36.

muskets . . . in fact, Springtown had their watchmen and every strange white man had to give a good account of himself or leave."<sup>18</sup>

This interest in protecting fugitives extended to Jersey-born slaves when the New York Committee of Vigilance became involved in several cases where Jersey slaves were "hired from Jersey to a free state," an occurrence that the New Yorkers found "in very many instances" in the 1830s. They claimed that Jersey masters routinely sold slaves and slaves for a term to the South and to New York, which led them to call "for the prompt and energetic exertions of the friends of abolition." In supporting Jersey slaves, the New Yorkers understood that the Hudson River, not the Mason-Dixon line, divided slavery from freedom and made a direct link between the national fugitive slave issue and slavery's persistence in the Garden State.<sup>19</sup>

Mirroring the developments in New Jersey, the fugitive slave issue caused a massive outcry by whites in other northern states, especially after the U.S. Supreme Court ruled all state laws requiring jury trials for fugitives unconstitutional in *Prigg v. Pennsylvania* in 1842. Therefore, it enjoined New Jersey's 1837 personal liberty law. This caused other states to prohibit their officials from enforcing the 1793 Federal Fugitive Slave Law, an action heralded by abolitionists like William Rankin Duryee, who claimed in 1840 that "if the Pennsylvania laws uphold slavery then the people of Pennsylvania are in a moral aspect, themselves slaveholders." On slavery's border, in south-central Pennsylvania, these cases led anti-slavery activity to focus intently on fugitive slaves. There, the conversation steered towards a political and legal defense of state's rights far more than wholesale abolitionism as it did farther north. New Jersey abolitionists also hoped to defend their state's rights and likewise

18. Harrold, *Border War*, 61, 95, 98, 107; *Pennsylvania Freeman* (Philadelphia), June 6, 1839, as cited in Harrold, *Border War*, 98; Andrews, *Reminiscences of Greenwich*, 33; Rizzo, *Parallel Communities*, 92.

19. Vigilant Committee of Philadelphia Records, HSP; *The First Annual Report of the New York Committee of Vigilance for the Year 1837, Together with Important Facts Relative to their Proceedings* (New York, 1837), 7-8, 13-16, 31-32, 55, 62-63, 71-72, and 78-79; Graham Hodges, *David Ruggles: A Radical Black Abolitionist and the Underground Railroad in New York City* (Chapel Hill, NC, 2010), 50-54 and 114-24. For sales south, see James Gigantino II, "Trading in Jersey Souls: New Jersey and the Interstate Slave Trade," *Pennsylvania History: A Journal of Mid-Atlantic Studies* 77 (Summer 2010), 281-302.

did not want the state to lend “her magistracy, her police, and her prisons to the claimants of men as fugitives.” They wished to remove any “connection with domestic slavery” by prohibiting slave catchers from using state jails or courts. Yet, public sentiment “was either not sufficiently matured or had not been sufficiently indicated itself to warrant” passage of such a regulation—New Jerseyans, excited about fugitives, desired the law to reinforce order on the border but seemingly refused to exacerbate sectional tensions over slavery.<sup>20</sup>

Indeed, many white New Jerseyans actually believed that the real problem with fugitive slaves came from the fugitives themselves. One hundred and twenty-five residents called on the legislature “to prevent the disgracefulness of riot and bloodshed . . . and prevent the supremacy of the laws being trampled upon by lawless hoards of Negroes and runaway slaves.” New Jersey’s congressional delegation voiced this anti-fugitive sentiment by painting New Jerseyans as uninterested in interfering with slavery and therefore distinct from other northerners. Whig Congressman John Van Dyke of New Brunswick emphasized the state’s precarious position with slavery when he pontificated in an 1850 speech that he was “not precisely certain whether I should class the State from which I come among the Northern or Southern” since the Mason–Dixon line would “cut our state directly in two.” Van Dyke claimed that in any case, “one thing is pretty certain, that neither she nor any of her representatives are very *fanatical* on the subject of slavery.” Democrat Garnett Adrain of New Brunswick echoed Van Dyke’s comments in 1861, claiming that in the midst of the crumbling republic, “the whole North is not abolitionized,” and that New Jersey had dealt fairly with the South. Senator Jacob Miller, a Morris County Whig, went even further by claiming in 1850 that the real “difficulty in New Jersey” had been

---

20. William Rankin Duryee, *The Duty of Pennsylvania Concerning Slavery* (Philadelphia, 1840), 1–6; Smith, *On the Edge of Freedom*, 8–9, 39–45, 70–72, 115–19; Morris, *Free Men All*, 94–104, 114–18; *Friends’ Weekly Intelligencer* (Philadelphia), Jan. 8, 1848; *The Liberator* (Boston), Sept. 1, 1848; Memorial Adopted by the New Jersey Anti-Slavery Society in Boonton, Jan. 17, 1843, Department of State, Secretary of State AM Papers, NJSA (for Jersey abolitionist quote); Robert Cover, *Justice Accused: Antislavery and the Judicial Process* (New Haven, CT, 1984), 166–74; Finkelman, “State Constitutional Protections of Liberty,” 776–79.

"how to get rid of those worthless slaves (that) remain there to the annoyance of our people."<sup>21</sup>

New Jerseyans had actively encouraged the return of fugitives by providing easy access to courts, jails, and judicial officers. Similar to David Smith's argument for south-central Pennsylvania, fugitive slaves had excited New Jerseyans but in a different way than New Englanders. Jersey whites developed a measured approach to abolition, one that stressed cooperation with southerners to enforce law and order on the border, not advocate abolition or inflame tensions. The presence of fugitives therefore never compelled most white New Jerseyans to think deeply about abolition or ensuring personal liberty after *Prigg*, but instead allowed politicians to stress the state's allegiance to the Constitution, interstate comity, and anti-abolitionism. Indeed, Congressman Garnett Adrain spoke extensively on how other "northern states have gone astray in unwisely passing laws which obstruct and nullify" the return of fugitives, yet New Jersey "has not followed their bad and prejudicial example" by passing a restrictive personal-liberty law. Instead, the state "has adopted a fugitive slave law of her own" and "has gone still further to manifest a kind and fraternal feeling towards her sister states of the South" by sustaining sojourner laws.<sup>22</sup>

21. Petition of Inhabitants of New Jersey to the Legislature Opposing the Harboring of Escaped Slaves, Jan. 30, 1837 and Feb. 1, 1837, Legislative Records, 1811–1934, BAH Collection, NJSA; *Speech of Mr. John Van Dyke of New Jersey, Delivered in the House of Representatives of the United States, March 4, 1850 on the Subject of Slavery and in Vindication of the North from Charges Brought Against it by the South* (Washington, 1850), 4; *State of the Union, Speech of Hon. Garnett Adrain of New Jersey in the House of Representatives, January 15, 1861* (Washington, 1861), 4; *Speech of Mr. Miller of New Jersey on the Propositions to Compromise the Slavery Question and the Admission of California into the Union, Delivered in the Senate of the United States, February 21, 1850* (Washington, 1850), 8; Smith, *On the Edge of Freedom*, 115–19, 140–42 (for similar issues in Pennsylvania).

22. *State of the Union, Speech of Hon. Garnett Adrain of New Jersey*, 4. This contrasts with Finkelman's interpretation of New Jersey as on the vanguard of northern personal liberty laws. Although I agree that from 1837 to 1842 it was incredibly progressive for the time, New Jersey politicians continued to position New Jersey as a strong supporter of interstate comity especially in contrast to other northern states after *Prigg*. See Finkelman, "State Constitutional Protections

Most importantly though, while other northerners had disowned their former slave state status, New Jersey politicians consistently drew upon that past to communicate solidarity with southerners, a desire for law and order on the border, and for gradual approaches to abolition. For instance, in a Senate debate in 1850, Jacob Miller claimed that southern charges that “the North has committed certain high-handed acts of aggression on the constitutional rights of the South” were unfounded because New Jersey had consistently aided in the return of fugitive slaves. Miller claimed that “for my own state, I am sure she is all unconscious of any aggressions on her part” since New Jersey differed from others, especially after *Prigg*, because she “was once a slave state herself” and “experienced some of the difficulties in recovering fugitive slaves.” To that end, New Jersey had “thrown (no) obstacles in the way of reclaiming fugitive slaves,” especially since they caused a “perfect nuisance.”<sup>23</sup>

Likewise, future Republican vice presidential candidate William Dayton, while serving in the U.S. Senate, echoed Miller’s sentiments in an 1850 debate with Senator Andrew Butler of South Carolina and North Carolina Senator George Badger. Dayton believed Badger’s depiction of a monolithic North uninterested in returning fugitives created “an injustice . . . to New Jersey.” He argued that his state had always fulfilled its constitutional obligations, even in Burlington County, where Quakers held “prevailing views and principles adverse to slavery.” Dayton believed that New Jersey “has not now and never has had a law” like those crafted after *Prigg*. Instead, restrictions on the removal of slaves from New Jersey “applied only to carrying, sending, or selling our own slaves,” not the return of southern fugitives.<sup>24</sup>

The acknowledgement by Jersey politicians of the state’s slave history encouraged them to continue the state’s gradualist approach to slavery

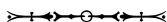
---

of Liberty and the Antebellum New Jersey Supreme Court: Chief Justice Hornblower and the Fugitive Slave Law,” 775–77.

23. *Speech of Mr. Miller of New Jersey on the Propositions to Compromise the Slavery Question*, 5–8; Philip Curtis Davis, “The Persistence of Partisan Alignment: Issues, Leaders, and Votes in New Jersey, 1840–1860,” PhD diss., Washington University, St. Louis, 1978, 157–74.

24. *The Territorial Question, Speech of Honorable William Dayton of New Jersey in the Senate of the United States, March 22, 1850* (Washington, 1850), 9, 11–12.

and abolition, charting a middle course on sectional issues. However, they were not mindless doughfaces. Instead, they argued that since New Jersey had made its own decision to gradually abolish slavery, it could not criticize other states for keeping it. In 1860, for instance, New Jersey's Senator John Ten Eyck claimed that New Jerseyans had chosen to excise the "cancerous malady," but admitted that "we had had the institution and I am not disposed to arraign or assail either the representatives or the people of other states who have not been so fortunate as we have been in getting rid of it." Policymakers therefore readily participated in the return of fugitive slaves, but Jersey politicians from both parties opposed slavery's expansion in the West. In 1847, legislators supported restrictions on slavery in the newly acquired Mexican Territories, a request to which of the state's senators and congressman acceded. Again, in 1849, the legislature implored its delegation to restrict slavery's expansion into New Mexico and Utah. Most Whig representatives agreed, though party loyalty led some Jersey Democrats to support popular sovereignty. Therefore, Jersey politicians generally saw little issue with either slavery's continuation or their support for it in places it already existed.<sup>25</sup>



Fugitive slaves' presence allowed white New Jerseyans to invoke past relationships with slavery to develop a measured anti-slavery response that defended law and order. Yet fugitive slaves also excited abolitionists who rejected both gradualism and colonization. They founded the New Jersey Anti-Slavery Society in 1839 with a unique dual mandate, to end slavery in the South and in New Jersey. The society, in a momentous shift from gradualism, recognized that both slaves and slaves for a term needed to be freed. In addition, the society also advocated for free blacks' political rights, seeing that battle as interconnected with abolition. In 1841, for example, the society made it clear that it hoped to "bring about an amelioration of the condition of the 21,000 colored persons in our

25. *Speech of Hon. John C. Ten Eyck of New Jersey Delivered in the United States Senate, April 2, 1860* (Washington, 1860), 4; "Relative to the extension of slavery in any territory . . ." Acts of the 71<sup>st</sup> New Jersey Legislature, Feb. 16, 1847; "Against the extension of slavery into free territory . . ." Joint Resolution, Acts of the 73<sup>rd</sup> New Jersey Legislature, Mar. 2, 1849.

own state.” They believed that since “charity is said to begin at home,” attention needed to be directed at slavery and servitude’s persistence in New Jersey.<sup>26</sup>

These whites joined black abolitionists who had already been fighting for abolition and civil rights. For example, black abolitionists in 1837 targeted the remnants of Jersey slavery, believing that a “horrible balance of oppression” existed for slaves for a term. They argued that “the progress of the cause of human rights has been the slowest and the prejudice the strongest” in East Jersey, where large numbers of slaves resided. Likewise, an 1840 article spoke to the moral bankruptcy that New Jerseyans exhibited by permitting slavery and allowing slaveholders to “carry on the trade when it best suits their convenience.” In 1841, they pressed the idea that slavery’s entrenchment supported restrictions on voting, economic growth, and education because, according to one traveler, when he “touched Jersey soil, SLAVERY gave me a knock.” This link between slavery’s continuation and the lack of black political rights led Newark’s black leaders in 1841 to wonder how to pressure the legislature to overturn the “oppressive law” that disenfranchised “free citizens merely from difference of complexion,” the same complexion as the enslaved. Therefore, abolitionist discussions, black or white, routinely intertwined abolition with how “in the Republican State of New Jersey” free blacks “were oppressed and proscribed out of all their civil rights and privileges” since in their minds, one issue fed off the other.<sup>27</sup>

Meanwhile, white abolitionists rallied awareness of slavery’s slow death by publishing articles using the Latin penname “Verus.” In 1840, Verus argued that “Mason and Dickson’s (sic) line” was not “the northern boundary of slavery” but that “most of the northern states” retained slavery, leaving their “purification . . . from the stain of oppression to the tardy ministry of death.” Verus questioned if New Jersey was indeed free, since “our own statute book sanctions” the same slave system in operation in the South. A second article expounded on how black New

26. Record Book of the New Jersey Anti-Slavery Society, New Jersey Anti-Slavery Society Papers, NJHS; for quote, see Christopher Breese to Theodore Dwight Weld, July 16, 1841, Weld-Grimke Papers, Clements Library.

27. Record Book of the New Jersey Anti-Slavery Society, New Jersey Anti-Slavery Society Papers, NJHS; *Colored American* (New York), Apr. 8, 1837, Sept. 14, 1839, Nov. 21, 1840, Feb. 6, 1841, and June 19, 1841.

Jerseyans remained “the slaves of other men . . . liable to public whipping” and could be subjected “to a course of rigid discipline (as horse jockeys do with the subjects of their traffic).” These attempts at moral persuasion worked in tandem with society efforts to use the voting booth to advocate, along with the Liberty Party, a political solution to slavery. One local auxiliary, the Essex County Anti-Slavery Society, argued that anyone who “either refuses or neglects to aid” abolition “at the ballot box . . . leaves the victim of oppression unrelieved and helpless in the hand of his oppression.”<sup>28</sup>

The society used the same arguments to petition the legislature to end New Jersey’s ambiguous relationship with slavery. For example, in 1841 the society claimed that “the statue book of New Jersey is still disfigured with the laws of slavery” and accused the legislature of treating its previous petitions “with cold neglect . . . on account of the interests of a few dozen slaveholders among us” (and) “because of the unjust ascendancy of the slave power in the national government.” The abolitionists demanded “equal rights to ALL MEN,” which to them included slaves, slaves for a term, and a redress for the “disabilities imposed on our twenty-thousand free people of color” in New Jersey without equal rights.<sup>29</sup>

These attempts at guilt-tripping legislators into supporting abolition filtered down to the grassroots level, where abolition society auxiliaries, especially in Boonton, the home of society president John Grimes, quickly became hotbeds of abolitionism and created their own petitions. In 1843, Boonton’s citizens asked the legislature to repeal the requirement that blacks carry their freedom papers, seemingly unnecessary after state

28. *The Friend: A Religious and Literary Journal* (Philadelphia), Jan. 18, 1840 and Jan. 25, 1840; Record Book of the New Jersey Anti-Slavery Society, Jan. 13, 1841, New Jersey Anti-Slavery Society Papers, NJHS; Minute Book, Essex County Anti-Slavery Society, NJHS.

29. Record Book of the New Jersey Anti-Slavery Society, New Jersey Anti-Slavery Society Papers, NJHS; State Convention of Abolitionists, *An Address to the People of New Jersey*, 2–3, for first and second quotes; Petitions of the Anti-Slavery Society to the Legislature Opposing Slavery and Laws Against Blacks, Jan. 17, 1843, Department of State, Secretary of State AM Papers, NJSA (for third quote); Zilversmit, *The First Emancipation*, 218–19; Marion Thompson Wright, “New Jersey Laws and the Negro,” *Journal of Negro History* 28 (Apr. 1943), 156–99; *Colored American* (New York), Aug. 8, 1840.

courts voided the legal link between race and slavery in 1836. The Boonton petition also demanded that slaves for a term be given “the opportunity of receiving a good common school education and of learning some useful mechanical art” instead of functioning as untrained agricultural or domestic laborers, which perpetuated their unfreedom.<sup>30</sup>

In October 1842, Grimes brought the abolitionist interest in freeing both slaves and slaves for a term to a larger audience by publishing the *New Jersey Citizen*, the state’s first abolitionist newspaper. Grimes, a physician also active in temperance, hoped that the *Citizen* could “foster and enlarge the anti-slavery influence of the state.” In the first issue, Grimes remarked that the number of slaves for a term “must be very large” and that their condition was “real slavery for the time being.” He asked, “who will say that New Jersey is not a slave state” and wondered when “will New Jersey reach the standard of the age” and, “like that of most of the northern states,” make its air “too pure for a slave to breath in.” The *Citizen* soon folded, but in June 1844 Grimes began publishing the *New Jersey Freeman*, where he argued that Jersey abolitionists needed to maintain “the deep and unqualified sinfulness and impolicy of slavery and the obligation of immediate universal emancipation.”<sup>31</sup>

Though abolitionists had become more active due to the debates over southern fugitive slaves, most whites supported law and order more than abolition as anxiety over economic competition, amalgamation, and racial tensions increased in tandem with the rising free black population. In 1840, the Anti-Slavery Society saw this anti-abolition sentiment when Trentonians protested the society’s annual meeting. The *Newark Daily Advertiser* reported that residents “hardly knew what to make of” the abolitionists’ presence since they had “not known that there was a single abolitionist in” the entire city. Henry Stanton and James Birney led the society’s public afternoon session in Trenton, which resulted in both reporting that they were there “to hear as much as to be heard” since “the public began to bellow in the discordant tones of a many-headed

30. Memorial adopted by the NJ Anti-Slavery Society in Boonton, Jan. 17, 1843, Department of State, Secretary of State AM Papers, NJSA.

31. *New Jersey Citizen* (Paterson), Oct. 1, 1842; William Switala, *Underground Railroad in New Jersey and New York* (Mechanicsburg, PA, 2006), 68; *New Jersey Freeman* (Boonton), June 1844; John Cudd, “The Unity of Reform: John Grimes and the New Jersey Freeman,” *New Jersey History* 97 (Winter 1979), 197–212.

monster," expressing many of the same racial views as those who participated in anti-abolition riots around the same time.<sup>32</sup>

One Trenton observer echoed the lack of abolitionist support in 1840 when he noted that abolition was "not a moving power among the people." An 1854 edition of the *Newark Advertiser* agreed, arguing that most whites opposed the "reckless following out of abstract doctrines on human rights regardless of consequences" that abolitionists put forward. The *Trenton American*, on the eve of the Civil War, similarly claimed "we do not know that as yet there are a great many out and out abolitionists in New Jersey." The real numbers reinforce this lack of abolitionism as the Garden State, in 1838, had fourteen abolition societies compared with Ohio's 251 and New York's 369.<sup>33</sup>

Gradualism and antislavery, rather than immediate abolitionism, prevailed in New Jersey. Governor William Pennington, in 1840, reiterated this gradualist approach by arguing that under the state's abolition system, "slavery has become almost extinct." Pennington, like other gradualists, believed that "the condition of servitude (that remains) is of the most mitigated" form and immediate abolition was unnecessary. This gradualism was reflected in the state's 1844 constitution when abolition and black civil rights were not included, which the *New Jersey Freeman* deemed representative of the state's "perfect apathy" to black freedom.<sup>34</sup>

Abolitionists decided their next best move rested in a legal attack against the institution and enlisted former New York Anti-Slavery Society President Alvan Stewart to assist. Abolitionists wrote extensively about the case, *State v. Post*, and placed the continuation of Jersey slavery in the context of abolitionism in Latin America, Asia, North Africa, and the British Empire. The *Freeman* claimed that the case would hopefully render "many of the most abominable slave laws" that the state had "upon

---

32. Zilversmit, *The First Emancipation*, 217; John Cunningham, *Newark* (Newark, NJ, 1988), 131–32; *The Liberator* (Boston), Feb. 14, 1840 (which reprinted the *Newark Daily Advertiser*).

33. Commentary from Marcus Ward, *Trenton American*, Sept. 17, 1860, and *Newark Advertiser*, May 10, 1854, all cited in William Gillette, *Jersey Blue: Civil War Politics in New Jersey, 1854–1865* (New Brunswick, NJ, 1994), 5; David Hillstrom, "New Jersey and the Abolition Movement," BA thesis, Princeton University, Princeton, NJ, 1965, 42.

34. *Colored American* (New York), Nov. 7, 1840; *New York Evangelist*, June 16, 1864; *Proceedings of the New Jersey State Constitutional Convention of 1844* (Trenton, NJ, 1942), 163, 614–44; *New Jersey Freeman* (Boonton), July 1844.

her Statute Book . . . null and void” while others hoped it would awaken “a more general interest in the subject.”<sup>35</sup>

Stewart filed two writs of habeas corpus in defense of Mary Tebout, a nineteen-year-old slave for a term, and William, a sixty-year-old slave owned by John Post. He argued that slavery was unconstitutional under the 1844 New Jersey constitution, claiming it was no different than the Massachusetts constitution, which that state’s justices used to eliminate slavery in the 1780s. Article I claimed that “all men are by nature free and independent and have certain natural and unalienable rights,” language Stewart believed freed the approximately 3,000 slaves and slaves for a term who remained in New Jersey. In an impassioned eleven-hour argument, he told justices that “we live in an abolition age, when the dungeons which have incarcerated suffering humanity are being broken in and unlocked in every corner of our benighted world” and begged them to “open this castle of slavery, New Jersey, with the key of the new constitution” and abolish slavery.<sup>36</sup>

The New Jersey Supreme Court, however, found that the constitution did not change the state’s relationship with slavery and ruled that the institution had been accepted and supported after its ratification. Since it did not specifically contain an abolition clause, the broad ideas in Article I did not abolish slavery. Furthermore, since Virginia maintained slavery even though its constitution had a similar section, the judges therefore concluded that Article I was a rhetorical device never intended to “interfere with . . . domestic relations.” The negative decision shocked abolitionists, leading the *Freeman* to “blush at our New Jersey Court” and report that the decision, “to the astonishment of almost all Jersey-men,” left the “slave question in our state” unsettled. They damned the

---

35. *New Jersey Freeman* (Boonton), Sept. 1844, Jan. 31, 1845, and Apr. 30, 1845; *New York Evangelist*, May 22, 1845 and Aug. 20, 1846; *Friends’ Weekly Intelligencer* (Philadelphia), July 26, 1845. Stewart was a long proponent of the idea that the US Constitution’s mandate of a republican form of government barred slavery’s existence. He also argued this point in New Jersey. See Alvan Stewart, *A Legal Argument Before the Supreme Court of the State of New Jersey* (New York, 1845), 37.

36. Zilversmit, *The First Emancipation*, 218–19; Stewart, *A Legal Argument Before the Supreme Court of the State of New Jersey*, 5, 45; *New Jersey Freeman* (Boonton), June 1845 and Feb. 1846.

Court and argued that "New Jersey is still, according to the last legal definition, a SLAVE STATE."<sup>37</sup>

However, the *Post* decision brought Jersey slavery into public debate again, incidentally in the same year that the legislature conducted a review of state laws to bring them in line with the 1844 constitution. A legislative committee ordered further discussion by the full legislature for laws regarding fugitive slaves, apprentices, servants, and the 1798 omnibus slave code. This review also coincided with national debates over the annexation of Texas, fears of the encroaching slave power, and Jersey abolitionists' own failure to "secure the freedom of the enslaved" in New Jersey, forcing them to ponder if their home could "be redeemed from the stigma of being in fact as it really is, a *slave state*?" This perfect storm likewise collided with the ever present issue of fugitive slaves that reiterated a gradualist mentality and measured approach to abolition.<sup>38</sup>

The legislative debate on ending slavery in New Jersey focused on northeast New Jersey (Bergen, Passaic, and Hudson counties) where the majority of slaves lived. A populous slaveholding area since its settlement by the Dutch, slaveholding lineages passed these slaves down through the generations, resulting in slaves making up almost 20 percent of the population immediately after the Revolution. This concentration of slaves, rivaling those in many southern states, survived into the antebellum period, where by the 1840s they and their children, all slaves for a term, still actively worked as domestic servants and farm laborers, feeding the fertile market of New York City. This long history of slaveholding caused bound labor to remain an important labor choice even as the state moved closer to a free society. Senators Richard Paulison (Bergen),

37. 20 NJL 368, *State v. Post*, Supreme Court of New Jersey, May Term, 1845; Zilversmit, *The First Emancipation*, 218–19; Hodges, *Slavery and Freedom*, 174–75; Cooley, "A Study of Slavery in New Jersey," 28; *The Constitution and Farmers' and Mechanics' Advertiser* (Woodbury, NJ), July 22 and 29, 1845; *The Sentinel of Freedom* (Newark, NJ), July 22 and 29, 1845; *New Jersey Freeman* (Boonton), Aug. 7, 1845 and Jan. 10, 1846. See note 8 for a discussion on numbers of slaves in the 1840s.

38. *Ibid.*, Feb. 11, 1846 and Mar. 1846; *Report of the Revisers of the Statute Laws of New Jersey, Read January 19, 1846 and ordered to be printed for the Senate* (Trenton, NJ, 1846), 3–5, 14, 20, 30, and 38.

Cornelius Garrison (Passaic), and Richard Outwater (Hudson) therefore systematically defended their constituents' property rights in a fiery debate in the state senate. Some of their opposition likely came from their own relationships with slavery. Outwater's family had owned numerous slaves, while Paulison still owned a female slave and a slave for a term, Sam, who remained in his service until 1855. Thus, in 1846, Paulison had a clear understanding of how the abolition bill would impact both him and the slaveholders he represented.<sup>39</sup>

Despite attempts by the three legislators to derail the abolition bill and disarm its key components, Jersey legislators approved abolition in 1846 because the fugitive slave issues that had excited abolitionists, white and black, helped them organize a renewed movement to force politicians to make a choice on abolition, one that they had deferred for decades. Succumbing to abolitionist charges of hypocrisy for slavery's continuation while they advocated for free soil in the West and the growing pressure exerted by the free black community, legislators sped up slavery's death but still relied on the same gradualism used by lawmakers in their past dealings with slavery. In many ways, the 1846 law mimicked their response to the fugitive slave crisis by reinforcing the preservation of law and order, ensuring the state's delicate racial balance, and preventing whites from supporting hundreds of elderly ex-slaves. The law did abolish slavery but reclassified slaves as *apprentices for life*. This convoluted legalese allowed for abolition with no impact to property rights, the hallmark of gradualism. Apprentices for life would be treated as slaves but with three important differences. First, apprentices could not be sold out of state. Second, they could file complaints for injurious service or working conditions. Third, they could be "released from service" (manumitted), if they could independently support themselves, and masters would not be liable for their care if they became indigent, unlike slaves. This change likely encouraged masters to free apprentices, though no records survive to show its pervasiveness. Yet, despite some tangible legal differences, masters retained significant control over these apprentices. The

---

39. Hodges, *Root and Branch*, 1–68; *Journal of the Proceedings of the Second Senate of the State of New Jersey, 1846* (New Brunswick, NJ, 1846), 725–28; William Nelson, *History of Bergen and Passaic Counties, New Jersey* (Philadelphia, 1882), 401; Bergen County Black Birth Book, NJSA.

law permitted their sale within the state, their temporary removal out of state, and sustained sojourner laws for non-residents.<sup>40</sup>

The law also did not free slaves for a term; they remained bound to their masters. Thus, Hannah, born on March 27, 1844, the last child registered under the gradual abolition law, continued to serve her mother's master until March 27, 1865. The 1846 law did, however, mandate that children born to apprentices would be free at birth. Masters would maintain them until age six when the overseers of the poor would bind them out to age twenty-one. This might have happened to Alonzo, the son of Susan, an apprentice for life from Monmouth County, if Susan's free relatives had not volunteered to care for the boy to prevent this separation.<sup>41</sup>

April 18, 1846, became emancipation day in New Jersey, though, like July 4, 1804, it was not marked by public festivities. Most apprentices for life continued to function as slaves. Catherine, John Hagaman's sixty-seven-year-old "slave for life," continued to live as a slave with Hagaman and was listed as such on her bill of sale to Charles Sutphin in 1856. Likewise, John Berdan, who died in Saddle River two months after the law passed, still listed that he owned two slaves and possessed "the time of service" of five "persons of color born under the act for the gradual emancipation of slavery." The same occurred in September 1846 when Cornelius Van Buskirk of Hackensack left his "colored man slave named Charles" to his wife, with similar occurrences as late as 1855 in probates.<sup>42</sup>

John Whitlock, of Marlboro Township in Monmouth County, did more than just use antiquated language; he successfully registered Sarah, the child of his slave for a term Phebe, with the county clerk in 1847. That the clerk allowed this registration and thereby acknowledged Whitlock's right to hold Phebe's fully free child illustrates that even government officials did not fully grasp the legal peculiarities that abolition had

40. Zilversmit, *The First Emancipation*, 220–21; Act to Abolish Slavery, Apr. 18, 1846, Title XI, ch. 6, 382–90.

41. Monmouth County Black Birth Book, Monmouth County Archives; U.S. Census, 1850: Marlboro, NJ Census Schedule. For an alternative explanation of Alonzo, see Hodges, *Slavery and Freedom in the Rural North*, 175.

42. Bill of Sale for Catherine, Feb. 16, 1856 and Hunterdon County Manumission Book, 426–27, Hunterdon County Historical Society; Bergen County Wills and Probates, Estate File 4936, 5295, and 5311, NJSA.

created. Indeed, twenty-three years later, in 1870, Sarah, along with her children, Jane and Willie, lived with the Whitlock family as domestic servants. Two generations removed from slavery, the relationships slavery created endured after the Civil War.<sup>43</sup>

Abolitionists also continued to see their task as incomplete. In 1847, the *Freeman* argued that citizens still needed to “redeem their own state from the condition, the crime, and disgrace of a slaveholding state.” The paper explained that “New Jersey is called a free state” but had “several hundred slaves, most of whom are likely to die slaves,” that still needed to be freed. This distress continued when in April 1848 the editors decried that “in this age when even the Turks are abolishing slavery,” New Jersey remained a slaveholding republic.<sup>44</sup>



New Jersey’s abolition period had introduced its residents to myriad forms of unfreedom and its end became as complicated as its beginning. After two decades marked by a pervasive apathy toward slavery, the 1830s represented a pivotal moment: Slavery had been inserted back into public debate through the presence of fugitive slaves, which re-energized abolitionists who endorsed the immediacy of slave freedom. Fugitive slaves, sectional tensions, and abolitionist activity convinced legislators to address slavery in 1846, but they declined to dramatically alter slavery’s slow death despite calls of hypocrisy from abolitionists. Instead, white New Jerseyans continued to resist abolition by using their past association with slavery to define their place in the increasingly divided nation. Other northern states, especially Pennsylvania, also had to deal with their slaveholding past, and along with New Jersey, illustrate that the New England paradigm of a wholesale disownment of slavery did not apply on slavery’s border. On the border, the constant rush of fugitive slaves and concerns over maintaining law and order did not allow slavery’s memory to die. Instead, it motivated different approaches to the institution.

43. Bergen County Wills and Probates, Estate File 4966, NJSA; Monmouth County Black Birth Book, Monmouth County Archives; U.S. Census, 1870: Marlboro, NJ Census Schedule, 39.

44. *New Jersey Freeman* (Boonton), May 15, 1847, Sept. 4, 1847, and Apr. 27, 1848.

At one level then, New Jersey's experience with slavery shows that slavery survived far longer and more powerfully in the North than previously imagined. In a larger sense, it illustrates that the North was not monolithic—New Jerseyans did not rush to abolition. Indeed, slavery was incredibly hard to destroy even in the 1840s. Most importantly, slavery's slow northern death demonstrates that the institution had a tangible impact on the sectional crisis. New Jersey and southern politicians' shared an understanding of slavery and an astute knowledge of the various forms of unfreedom associated with it. This not only informed policy decisions but impacted the lives of those Jersey blacks who remained unfree until the Thirteenth Amendment finally abolished slavery and servitude in 1865.

Copyright of Journal of the Early Republic is the property of University of Pennsylvania Press and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.