SLAVES VIRTUALLY FREE IN ANTE-BELLUM NORTH CAROLINA

The treatment of Negro slaves in the ante-bellum South has been the subject of considerable discussion among students of history for many years. Points of difference in the matter have ranged all the way from the contentions of the apologists that the slave system was one of genuine paternal benevolence to the arguments of the antagonists who insisted that almost every southern plantation was a place where humanity ended and barbarism began.[1] Too often, the sweeping generalizations which the contenders have set forth have been based on more passion than fact; and they have frequently overlooked the opportunity to bolster their points of view with supporting evidence, of which there is an abundance on both sides. The evidence on either side can hardly be conclusive, however, for the fact is that the treatment of slaves in the ante-bellum South had almost as many variations as there were slaveholders. The attitudes of whites toward Negro slaves and the policies which were the results of those attitudes were determined in a large measure by the social, economic, and political conditions in

[1] The literature on both sides is abundant. U. B. Phillips, *American Negro Slavery*, (New York, 1918) is one of the ablest and best known works which sets forth the point of view that, on the whole, Negro slaves were treated very well in the Ante-bellum South. Concerning the treatment of slaves, Phillips said, "In the actual regime severity was clearly the exception, and kindliness the rule," p. 306. One of the most recent and best discussions of the absence of humanity on the southern plantation is Frederic Bancroft's *Slave Trading in the Old South* (Baltimore, 1931). One of Bancroft's conclusions was, "Slavery maintained as a profitable and convenient institution was essentially ruthless in general and inhumane in some of its main features," p. 197. The bibliographies in these and other works of a similar nature will furnish additional sources, primary and secondary, concerning the treatment of slaves in the Ante-bellum South.

a given area.[2] These conditions were, in turn, affected by a large number of personal considerations that grew out of the master-slave relationship. Although the black codes were stringent in every part of the South, especially in the period immediately preceding the Civil War, the treatment of slaves by groups or individuals was at such marked variance with the law that many Negroes enjoyed virtual freedom.

In observing a group whose status was only technically that of slaves, one must be careful not to slip into the rather enticing pitfall of making hasty generalizations regarding the treatment of slaves. The mass of evidence on the other side of the picture is just as imposing—perhaps even more so—and upon sober reflection, the student of history can enjoy the consolation that comes from the knowledge that every institution has its lights and its shadows. It is enough, here, to realize that in the face of an abundance of restrictive legislation, there were many slaveholders who, for one reason or another, had sufficient humanity within themselves to treat their human chattel as human beings. In the State of North Carolina, the number of masters who treated their slaves in such a manner was always considerable, and some of the reasons for such an attitude are not difficult to discover.

North Carolina was never one of the chief slaveholding states. Her slaves were considerably fewer than those of her neighbor states of Virginia, South Carolina, and

[2] Professor Sydnor says that the master's treatment of his slaves depended chiefly on his character, but goes on to say that the "white man's attitude toward slavery was determined largely by the economic interests of his class." C. S. Sydnor, *Slavery in Mississippi*, (New York, 1933), p. 249. Coleman also suggests the importance of social and economic factors in the treatment of slaves when he observes somewhat subjectively, "Slavery in the Bluegrass State . . . was much more a domestic than a commercial institution. And it was in this environment of lavish nature, prodigal outlay . . . and benevolent bondage that the folks in the big house . . . enjoyed life in those colorful and romantic days of ante-bellum Kentucky." J. W. Coleman, *Slavery Times in Kentucky*, (Chapel Hill, 1940), p. 47.

Georgia. As a matter of fact, sixty-seven per cent of the slaveholding families held fewer than ten slaves in 1860, while seventy-two per cent of North Carolina's families had no slaves at all.[3] On the whole, the State was one of yeomen and small slaveholders. In the absence of a large number of great plantations, one can be certain that there was also a smaller degree of the impersonal relationships that breed suspicion and distrust. Since many masters in ante-bellum North Carolina worked side by side with their slaves, they felt that they *knew* them and had the problem of discipline well in hand. When the slaveholder clamored for more restrictive legislation, it was for the purpose of bringing his neighbor's slaves under the surveillance of the law rather than his own. Under these circumstances, it is not difficult to conceive of a situation in which many slaveholders refused to enforce the law in regard to their own slaves, which resulted in a general laxity of law enforcement over a large area.

By the beginning of the eighteenth century, there was to be found in North Carolina a large number of persons whose social background, political philosophy, and religious teachings served to weaken their beliefs in the efficacy or the righteousness of the peculiar institution. Hard-working Scotch-Irish yeomen of the West and the piedmont and Quakers and Moravians of the central counties were not very enthusiastic about slavery. And although some of them owned slaves, they were moving rather rapidly into the category of antislavery proponents or slaveholders who permitted their wards to go virtually free.

Long before the beginning of the nineteenth century, North Carolina had a set of laws concerning the treatment of Negro slaves. Beginning in 1715, the Lords Proprietors and the General Assembly had begun to establish rules gov-

[3] Guion G. Johnson, *Ante-Bellum North Carolina*, (Chapel Hill, 1937), 469ff. See, also, Rosser H. Taylor, *Slaveholding in North Carolina*, (Chapel Hill, 1926), 30-47.

erning slaves within the colony, and by the time of the Revolution, the black code had been completed. The injunction against slaves traveling without passes,[4] the laws concerning the places and conditions under which Negroes could have meetings,[5] and the severe penalties attached to the laws against enticing slaves to leave their masters[6] were all safeguards against possible insurrections. Even more effective precautions were the laws against the possession of weapons by Negroes,[7] and the penalty of death for "consulting, advising or conspiring to rebel, or make insurrection."[8] The establishment of patrols from the very beginning, moreover, served to insure the enforcement, at times at least, of the laws that were being enacted.

In the first half of the nineteenth century, North Carolina found herself in a situation that almost demanded a more stringent black code. Her neighbors were passing legislation affecting slaves at such a rate as to embarrass her proslavery politicos.[9] The restrictive legislation in neighboring states, moreover, had the effect of driving a large number of slaves out of Virginia, South Carolina, and Georgia into the Old North State with the result that the jails of North Carolina were, at times, literally filled with runaway slaves from outside the state.[10] By 1826 the effective work of the twenty-three branches of the North Carolina Manumission Society brought to the attention of North Carolinians the fact that the system of slavery was being

[4] Walter Clark, ed. *The State Records of North Carolina*, (Goldsboro, 1906), XXIII, 63.

[5] *Ibid.*, XXIII, 65.

[6] *Ibid.*, XXIII, 197.

[7] *Ibid.*, XXIII, 201.

[8] *Ibid.*, XXIII, 202.

[9] See John C. Hurd, *Law of Freedom and Bondage in the United States*, (Boston, 1858), II, 95ff.

[10] This accounts, in part at least, for the concentration of free Negroes, some of whom were runaway slaves from other states, in the counties bordering on Virginia and South Carolina.

undermined from within.[11] In the same year, an attack on the institution came from outside the State. The Legislature of Vermont transmitted a resolution to the North Carolina General Assembly stating that "slavery is an evil to be deprecated by a free and enlightened people" and offered its cooperation in "any measures which may be adopted by the general government for its abolition in the United States. . . ."[12] So infuriated were the Governor and the Assembly of North Carolina that legislation was passed more carefully regulating the militia and patrols and circumscribing even further the activities of slaves.[13]

The appearance of David Walker's *Appeal in Four Articles* in North Carolina in 1829 aroused the deepest fears in the hearts of North Carolina slaveholders. Walker, a North Carolina free Negro living in Massachusetts, denounced the institution with such bitter invectives that his *Appeal* proved to be one of the most powerful antislavery tracts written by any of the enemies of the institution.[14] He predicted that a Negro would rise to lead his people out of bondage and called on all Negroes, slave and free, to fight against the institution with all the vigor that they could summon. Reaction against the Walker pamphlet on the part of North Carolina officials was immediate and positive. A law against the circulation of books and papers that tended to "excite insurrection, conspiracy or resistance in the slaves or free Negroes" was passed at the next session of the Legislature.[15] Another law was passed which pro-

[11] Alice D. Adams, *The Neglected Period of Anti-Slavery in America (1808-1831)*. (Boston, 1908), p. 34.

[12] A printed copy of the resolution is in the Legislature Papers of North Carolina for 1826-27.

[13] *Laws passed by the General Assembly of North Carolina, 1826-27.* (Raleigh, 1827), 15.

[14] For a complete discussion of Walker's *Appeal* see Clement Eaton, "A Dangerous Pamphlet in the Old South," *Journal of Southern History*, II (August, 1936). See, also, Joseph C. Carroll, *Slave Insurrections in the U. S., 1800-65.* (Boston, 1938), pp. 120-127.

[15] *Laws, 1830-1831*, 10.

hibited "all persons from teaching slaves to read and write, the use of figures excepted."[16]

By 1830 the laws concerning manumission had become something of a dead letter and were rather generally disregarded. The clause in the enactment of 1796 requiring proof of meritorious services in the case of emancipated slaves was not enforced, and the county courts granted almost all applications for freedom without making the slightest investigations.[17] The increase of free Negroes in every part of the State[18] and the provocations by such individuals and groups as David Walker and the Vermont Legislature caused the passage of a law, in 1830, carefully regulating the manumission of Negro slaves. In part, the law said,

> Any inhabitant of this State, desirous to emancipate a slave or slaves, shall file a petition in writing in some one of the Superior Courts of this State, setting forth . . . the name, sex, and age of each slave intended to be emancipated, and praying permission to empancipate the same; and the Court . . . shall grant the prayer . . . on the following conditions, and not otherwise, viz, That the petitioner shall show that he has given public notice of his intention to file such petition at the court house of the county, and in the State Gazette for at least six weeks before the hearing of such petition; and that the petitioner shall enter into bond, with two securities. . . payable to the Governor . . . in the sum of one thousands dollars for each slave named in the petition, conditioned that the slave or slaves shall honestly and correctly demean him, her, or themselves . . . and that within ninety days shall leave the State of North Carolina and never afterwards come within the same.

In another section, the law made it valid, with certain qualifications, "for any person by his or her last will and testament, to direct and authorize his or her executors to cause to be emancipated any slave or slaves, pursuant to this act." It further provided that slaves over fifty years old could be emancipated for meritorious services which,

[16] *Ibid.*, 11.

[17] *Laws, 1790-1804*, 3. See, for example, the records of the Court of Pleas and Quarter Sessions of Craven County, 1804.

[18] In the decade ending in 1830, the free Negro population had increased from 14,712 to 15,793. U. S. Census Office, *The Fifth Census.* (Washington, 1832), 91-93.

incidentally, had to consist "in more than general performance of duty."[19]

Although the number of free Negroes continued to increase after the passage of the manumission law of 1830,[20] it can be said with reasonable certainty that some slaveholders declined to accept the conditions set forth in the law. The bond of $1,000 required for every slave to be emancipated was an obstacle of considerable magnitude. Often, too, either the master or the slave, or both, refused to accept the condition of emancipation that required almost immediate, and certainly permanent, removal from the State. Finally, the fact that slaves could not be emancipated for meritorious services until they were past fifty years of age worked such hardship on the prospective freedman that he might have reasonably refused freedom at his advanced age. Under such circumstances, it is safe to say that when manumission was desired on the part of the master, but where the obstacles were practically prohibitive, the master relaxed his control on the slave and allowed him to go virtually free.

It may be said, moreover, that the Supreme Court of North Carolina was always hostile to that part of the law of 1830 which permitted masters to free their slaves in their wills. In a case which came before the Court in 1848, that body declared that the slave, George Washington, could not be emancipated by the will of his mistress.[21] Again in 1860, the court declared void that part of a will which sought to free the descendants of slaves which were kept within the State.[22] These opinions, adverse to the wishes of slave-

[19] *Laws of North Carolina, 1823-1831,* 12.

[20] John Cummings, *Negro Population in the United States,* (Washington, 1915), 57.

[21] Creswell et al. *v.* Emberson, 41 *North Carolina,* 103.

[22] Myers and wife, and the same administrator as John A. Lillington *v.* Williams et al., 58 *North Carolina,* 286. As early as 1816, when the Assembly passed an act against the desire of the administrator of the deceased's estate, the Court held that the act was void. Allen's Administrator *v.* Peden, 4 *North Carolina,* 332.

holders desiring to free their slaves, had the effect of increasing the number of slaves virtually free.

II

Up to 1830, North Carolinians found little legal difficulty in setting their slaves free, if for economic or benevolent reasons they decided to do so. After the passage of the manumission law of that year, however, they found that the manumission of Negro slaves was not just a matter of going through perfunctory proceedings. The superior courts were not nearly as lax as the county courts had been, and not infrequently those tribunals saw fit to reject the applications of would-be emancipators and sent them scurrying off to some other tribunal for more liberal consideration. The records for the period after 1830 abound in requests by slaveholders that the State Legislature pass special acts of emancipation. In the petitions, they often make it quite clear that the slaves were already virtually free, and they were only seeking legal approbation of a *fait accompli.*

In 1838 a most interesting case of a slave virtually free came to the attention of the North Carolina General Assembly. The owners of the woman slave were a white couple seventy-eight years old, who had taken the slave when she was an infant and had reared her "as though she were their own flesh and blood, they being deprived of those common pledges of love and affection of parents, and . . . said adopted coloured child became as near and dear to your petitioners as if she was borned of their bodies." The county court of Wilkes had set the girl free several years earlier, and she had "married a white man by the name of Joshua Cook, who is of a respectable family and now has four children by the Said Cook. Since that time," the owners asserted, "doubts has arose in the minds of professional men that said court did not possess the power according to the laws now in force."[23] The owners, therefore, wanted the

[23] After 1826, it was not lawful for county courts to manumit slaves. The power of manumission had been transferred to the superior courts.

slave set free by the State Legislature. The petitioners said that they could send the slave to a free state where she could retain her freedom, but they were old and infirm and had no other slaves who would pay the same attention as their adopted colored child. "She is obedient and affectionate and to sever the ties of parent and child is more than your petitioners could forego without great pain and affliction . . . and pray that your honorable body . . . pass a law to emancipate and set free their adopted child . . . and her four children. . . ."[24]

The foregoing petition was apparently convincing to the Assembly, for after the Committee on Propositions and Grievances recommended the passage of a bill containing the necessary provisions, both the House and the Senate passed it; and it became law on December 17, 1838.[25] There can be little doubt that in this instance, Caroline Cook, the slave in question, had been virtually free for many years before the passage of the bill of emancipation.

One practice that was fairly common among would-be emancipators was to give their slaves to their friends in their wills and stipulate that the slaves be held in nominal bondage only. In 1844 a slaveholder by the name of Query of Mecklenburg County conveyed to Richard Peoples a Negro woman and her child and $600 and later gave him 12 acres of land. When Query died intestate, it was brought out in the proceedings that he had transferred the slave and the property with the understanding that Peoples was not to free the slave, but to provide for her "protection, comfort and happiness." When the case came before the Supreme Court of the State, Mr. Chief Justice Ruffin took the point of view that that part of the will which dealt with the disposition of the slaves was contrary to the laws providing for emancipation. "There could scarcely be a plainer case of *quasi* emancipation, in violation and fraud of the law;

[24] Petition in the Legislative Papers for 1838-1839.

[25] See the endorsement of the bill. MS. in the Legislative papers for 1838-1839.

for the family is only required to maintain themselves, and the authority to be exercised is that, not of owners, but of parents." He, therefore, declared that portion of the will invalid and granted relief to the plaintiffs.[26]

Another case involving a similar set of circumstances was one which came to the Supreme Court from Caswell County in 1854. In his last will, N. P. Thomas conveyed his slaves to Nathaniel J. Palmer and provided a suitable home for them. When it appeared that they could not receive the benefits of the will as long as they remained in the State, the slaves moved to Ohio. The Supreme Court, in a decision declaring the will void, said,

> It is against the public policy . . . to allow negroes to remain among us in a qualified state of slavery. [Chief Justice Ruffin took the point of view that slaves might return as soon as the litigation was concluded satisfactorily.] Slaves who have the care and protection of a master, have houses provided for them, and a fund set apart for their support and maintenance, so that they can have the control of their own time, and may work or not . . . necessarily become objects of envy to those who continue to look upon them as fellow slaves.[27]

The Chief Justice concluded by saying that no will which gave slaves such wide freedom could be valid.

Another practice of testators was to provide that their slaves be given opportunity to hire out their own time. When Jeremiah Dunlap died in 1856, his will provided that certain of his Negroes given to his nephew, John Ingram, be permitted to "enjoy the proceeds of their labor in all respects in as full and ample a manner as the laws of the State will permit, and that they may have a sufficient por-

[26]Wm. T. Lemmond et al. *v.* Richard Peoples et al. 41 *North Carolina* 93. See, also, the will of a testator which provided that his slaves be turned over to a friend and that $3,000 and 200 acres of land be conveyed to provide for the slaves' care. The court said that the provision had no support by policy or law. "The result will be to establish in our midst a set of privileged negroes, causing the others to be dissatisfied and restless, and affording a harbor for the lazy and evildisposed." J. G. Lea et al. v. Thos. J. Brown et al., 56 *North Carolina*, 141.

[27]Lucy Thomas et al. *v.* Nathaniel J. Palmer, 54 *North Carolina*, 173.

tion of my land in the Patterson tract for making their support." Here again, the Supreme Court ruled against the testator, stating that such a bequest was one for emancipation and therefore not in agreement with the laws of the State.[27a]

Slaves were sometimes permitted to select their own masters. At times, these virtually free slaves carried an affidavit with them giving them such authority. In 1823 Sam Boney possessed such authority. His affidavit read,

> The bearer Sam Boney has leave to look for a purchaser his price is Three hundred and twenty-five dollars.
>
> Thomas Smith[28]

At other times, testators made such provisions in their wills. In 1852 a slaveholder said in his will,

> I desire that my two negroes, A. and S. shall continue to labor for the benefit of my estate for 3 years after my death, or pay the sum of seven hundred and fifty dollars. At the expiration of that time . . . I desire that they be permitted to select their masters; and do authorize and empower my executor to sell them . . . to such person or persons . . . at a nominal price . . . my intention being to have them kindly treated and properly taken care of, for the remainder of their lives.

The Supreme Court decided that this provision of the will was void and that "if the negroes chose to remain in the State, it would be the duty of the executor to sell them *as slaves.*"[29] Thus, even though several liberal North Carolinians sought to give their slaves virtual freedom, the highest tribunal of the State stood in their way at almost every turn.

One group that was continuously seeking to alleviate the conditions of slaves in ante-bellum North Carolina was the Society of Friends. In 1776 they began to improve the lot of the slaves when the Yearly Meeting appointed a com-

[27a] Dunlap *v.* Ingram et al., IV Jones Equity, 183.

[28] D. L. Corbitt, "Slave Selling Himself," *North Carolina Historical Review* (October, 1924), pp. 451-452.

[29] John C. Washington, Executor, et al. *v.* Elizabeth Blount, et al., 43 *North Carolina*, 165.

mittee to aid Friends in emancipating their slaves.[30] When the North Carolina Manumission Society was organized in 1816, Quakers of that State were among its most influential charter members.[31] Whenever they could, they would set their slaves free; but when legislation as well as public sentiment stood out against the emancipation of slaves, members of the Society of Friends began to work on the problem of how they could reconcile the law with the dictates of their innermost consciences.

The story of the activities of the Quakers in connection with the question of slavery is one of the most interesting of the ante-bellum period. Their troubles began in 1796 when the Legislature passed a law making it unlawful for any religious society to purchase or hold real estate exceeding 2,000 acres or in value £200 per year. Upon the advice of a young atorney, William Gaston, that there was nothing in the act that could be construed as a prohibition of the acquisition of personal property, the Quakers began to acquire slaves and either to set them free or hold them in a state of quasi-freedom.[32]

As the Quakers began to buy up slaves and set them free, North Carolina slaveholders became alarmed at the rapid increase in the number of free Negroes that was resulting and began to register their protests in various quarters. In several instances, the Quakers, fearing that the newly freed Negroes would be taken up or run out of the State, took them up themselves and either kept them or sold them to other Friends in order to prevent any trouble.[33]

[30] P. M. Sherrill, *The Quakers and the North Carolina Manumission Society.* (Durham, 1914), 32.

[31] *Ibid.*, 38. The Society was strongest in those counties where the Quakers were most numerous, namely, Guilford, Randolph, Chatham, Orange, Davidson, and Forsyth counties.

[32] See the opinion of William Gaston in this matter, quoted extensively in Sherrill, *Quakers,* 33ff.

[33] D. L. Corbitt, "Freeing Slaves," *North Carolina Historical Review,* (October, 1924), 449.

Some North Carolinians began to protest the right of Quakers to hold slaves. They took the point of view that since the enslavement of human beings ran counter to the religious principles of the Society of Friends, the Quakers who held slaves were not doing so in good faith. When, in 1827, the Quaker Society of Contentnea acquired slaves from William Dickinson, the right of such acquisition was questioned in the courts of the State. When the case came before the Supreme Court, that body decided against the Society. The words of Mr. Chief Justice Taylor are most revealing and deserve extensive quotation:

When Quakers hold slaves, nothing but the name is wanting to render it at once a complete emancipation; the trustees are but nominally the owners and it is merely colorable to talk of future emancipation by law, for as none can be set free but for meritorious services the idea that a collection of them will perform such services . . . is quite chimerical. . . .

The Chief Justice then laid down the general principle underlying his attitude toward the Society in question:

It is true that an individual may purchase a slave for gratitude, or affection and afford him such an indulgence as to preclude all notion of profit. The right of acquiring property and of disposing of it in any way consistently with law is one of the primary rights which every member of society enjoys. But when the law invests individuals or societies with a political character and personality entirely distinct from their natural capacity, it may also restrain them in the acquisition or uses of property. Our law allows the trustees to hold them for the benefit of the society, whereas in truth they hold them for the benefit of the slaves themselves, and only in the name of the society.

He left no doubt as to his own attitude toward the intentions of the Society and of the implications of such practices when he said,

Numerous collections of slaves, having nothing but the name, and working for their own benefit, in view and under the continual observance of others who are compelled to labor for their owners, would naturally excite in the latter discontent with their condition, encourage idleness and disobedience, and lead possibly in the course

of human events to the most calamitous of all contests, a bellum servile.[34]

The decision of the court is valuable here, not only because it represents a struggle between two opposing points of view in the matter of the treatment of slaves, but also because of the impression which the court had of the attitude of the Quakers toward the institution. The Chief Justice, and obviously a majority of his colleagues, felt that slaves in the hands of Quakers were virtually free and that such a state of things would have a most deleterious effect upon the institution in general.

The decision of the court in 1827, far reaching though it may have been in its effect on the program of the Society of Friends, did not altogether prevent the acquisition of slaves by Quakers. This delicate matter again came before the Supreme Court in 1833. Joshua White questioned the validity of a will that conveyed slaves to the trustees of a Quaker Society. The Supreme Court said that if by the will, the testator intended to confer on the slaves the right of free men, while they were nominally held in bondage, it was inoperative. But, Mr. Chief Justice Ruffin added, "when the Society has had the slaves for three years . . . the detinue [suit to recover them] cannot be successful, notwithstanding the society considers slavery as sinful and holds the slaves for the purpose of giving them advantages of freemen."[35] Thus, if no action was taken against the acquisition of slaves by a Quaker Society within a period of

[34] The Trustees of the Quaker Society of Contentnea *v.* Wm. Dickinson, 12 *North Carolina*, 120ff. In a strong dissent, Mr. Justice Hall said that there was nothing in the law of 1796 or in Quaker creed that forbade them to hold *title* to slaves. He said, "The Court ought not to take a step into the moral world and anticipate preventive remedies for possible infractions of the law." It is interesting to observe that the attorney for the Quaker Society was the same William Gaston who, in 1809, had advised the Society of Friends that the law of 1796 did not prohibit their acquisition of Negro slaves. The point of view of the Chief Justice was upheld in 1833. Elizabeth Redmond *v.* Bethuel Coffin, Executor of Thomas Wright, et al., 17 *North Carolina*, 351.

[35] Joshua White *v.* John C. White, 18 *North Carolina*, 264 ff.

three years, they were not recoverable and could go on living in the state of virtual freedom which the Quakers were wont to grant them.

One of the most famous cases involving the transfer of slaves of Quakers is that of Newlin *v.* Freeman, which was decided by the Supreme Court in 1841. Mrs. Sarah Freeman, a German-born citizen of North Carolina, acquired considerable real and personal property during the lifetime of her first husband. They decided, before his death, to emancipate their slaves; but the law of 1830 made manumission so difficult that she decided to seek some other way out. She therefore decided to leave them to "some steady old Quaker who would not have slaves." When her second husband, Richard Freeman, found that she had made such a disposition in her will, he entered a *caveat* to prevent her will from being executed. He took the position that she could not dispose of her real and personal property without his consent. In the lower court the jury held that the disposition of slaves and other personal property by Mrs. Freeman was lawful, but that she could not dispose of her real property without the consent of her husband. The Supreme Court upheld the decision. By this time, the liberal and sympathetic William Gaston, who had on several occasions acted as counsel for the Quakers, was sitting on the Supreme Court and wrote the decision. In part, he said, "We are of the opinion . . . that the law has been fairly expounded and correctly administered upon the trial."[36]

The acquisition of slaves by North Carolina Quakers went on with varying degrees of enthusiasm down to the end of the ante-bellum period. By 1814 more than three hundred and fifty Negroes had been transferred to Quaker Agents. In 1822 alone, 113 slaves were taken over by Quakers.[37] Although there are no figures for the period

[36] John Newlin *v.* Richard Freeman, 23 *North Carolina*, 386 ff.

[37] Stephen B. Weeks, *Southern Quakers and Slavery*, (Baltimore, 1896), 227.

after 1830, the court litigations, the increased difficulty in manumitting slaves, and the continued persistence of Quakers in the effort to improve the lot of the Negro seem to confirm the point of view that the Society of Friends continued to hold some slaves. The activities of the Quakers in this connection were not inspired by any determination to circumvent the laws of the State or to nullify them. Instead, they acquired slaves for the express purpose either of setting them free or sending them to some land where they could obtain their freedom. Their continued cooperation with the North Carolina Manumission Society and the American Colonization Society demonstrates their interest in setting up a colony to which Negroes could be sent.[38] Of course, they met growing obstacles, of an economic, political, and social nature, to the colonization plan; and toward the end of the period they found it practically impossible to carry out the program effectively.[39] Meanwhile, the Negroes who were under the care of the Quakers received the rudiments of education, enjoyed relaxed rules regarding their movements, and often hired out their own time. In other words, they enjoyed virtual freedom.

Another group which held slaves in what often amounted to a state of virtual freedom was the free Negroes themselves. Naturally, there are numerous cases on record of free Negroes who held slaves for economic gain.[40] There seems to be little doubt, however, that the majority of free Negroes held their slaves benevolently, and, therefore, granted them virtual freedom. There are many examples

[38] In 1826, alone, nearly $5,000 was collected by the North Carolina Yearly Meeting for the purpose of colonizing Negroes. Weeks, *Southern Quakers*, p. 230.

[39] Ibid., 238 ff. See, also, Early Lee Fox, *The American Colonization Society.*

[40] For example, Thomas Day, a wealthy cabinet maker of Milton, who had three slaves and a white journeyman to work in his business, could hardly be called a benevolent free Negro slaveholder. See the unpublished population schedules of the Census of 1860. In the Bureau of the Census, Washington, D. C.

of free Negroes having purchased relatives or friends to ease their lot. Many of them manumitted such slaves.[41] When the laws against manumission were made more exacting and when the Legislature declined to pass special acts granting emancipation, free Negroes experienced considerable difficulty in setting free their human chattel. Thus, Lila Abshur continued to hold title to her father when the Legislature acted unfavorably on her petition to emancipate him.[42]

Free Negro husbands, wives, mothers, and fathers often purchased their loved ones and, in turn, sought to emancipate them. When they failed the number of slaves virtually free was thereby increased. In 1840 Phillis Dennis, a free Negro, presented petition to the Legislature asking for the emancipation of her husband, whom she had purchased in 1834. She said that she was an invalid and had no relatives except slaves. She then said,

"The petitioner represents . . . That her husband has always treated her with great affection and tenderness both in sickness and in health and as a return therefor and for the reason that she has no heir to inherit her property . . . she is induced to petition . . . for an act emancipating her said husband, the said Joseph Dennis."

Accompanying the petition were various documents signed by citizens of Fayetteville asserting the good character of the woman and her slave husband and declaring him to be a "mechanic of considerable skill." Despite the plea of the petitioner and nearly fifty respectable citizens of Fayetteville, the House rejected a bill to emancipate Dennis on December 12, 1840, and it never reached the Senate.[43]

[41] See the minutes of the Court of Pleas and Quarter Sessions of Craven County, March, 1811 which shows that Thomas Newton, a free Negro, liberated his slave wife. MS. in the Archives of the North Carolina Historical Commission, Raleigh, North Carolina.

[42] MS. in the Legislative papers for 1856, in the Archives of the North Carolina Historical Commission, Raleigh, North Carolina.

[43] MSS. in the Legislative papers for 1840, in the Archives of the North Carolina Historical Commission, Raleigh, North Carolina.

There can be little doubt that Dennis, although technically still in the bonds of slavery, enjoyed virtual freedom.

When Polydore Johnston, a free Negro, asked the Legislature to emancipate his children, to which he held title, a heated debate ensued; and by a vote of forty-one to seventy-one, the House refused to act favorably on the petition.[44]

III

The nature of the freedom which some slaves enjoyed deserves some discussion. Some enjoyed almost unrestricted movement. Others enjoyed the opportunity to establish their economic independence. Still others, through education afforded them by their masters, were able to throw of the shackles of ignorance which bound them in a world of intellectual darkness. Some enjoyed all these aspects of freedom and even more. Sam Morphis, the slave of James Newlin, a Quaker of Alamance County, is a good example of a person in bondage enjoying freedom of movement and freedom in work. Morphis was a hack driver in Chapel Hill and a waiter at the University of North Carolina. Although he lived with Newlin, the latter apparently had little to do with his movements or activities. In his various jobs about the campus, he ingratiated himself into the favor of the students and teachers, and earned a fair livelihood. His popularity was attested by the fact that 309 students, the President of the University, and several members of the faculty sent petitions to the Legislature asking that Newlin's request that he be given permission to emancipate Morphis be granted. When the Legislature refused to comply with the request of Newlin, the small college town accepted once again the popular slave who enjoyed virtual freedom.[45]

[44] *Journal of the House of Commons, 1827.* (Raleigh, 1828), p. 180.

[45] MSS. in the Legislative papers for 1856. In the Archives of the North Carolina Historical Commission, Raleigh, North Carolina.

Jerry, the slave of Honorable D. M. Barringer, prominent lawyer and diplomat, enjoyed considerable freedom before he was finally emancipated in 1854. Mr. Barringer carried him to Europe, where he remained for fourteen years as a "universal favorite." He travelled with Mr. Barringer on his trips to Washington and the East and, although he enjoyed complete freedom of movement, conducted himself in a very creditable manner. On one occasion, when Jerry was strolling alone about New York, he stepped into a business house, where "some North Carolina brokers were shaving the paper money of their State. He took gold from his pocket and redeemed the paper at its full value, for the honor of his native State.[46] Freedom was no new thing to Jerry when the House of Commons by a division of 94 to 17 voted to emancipate him.[47]

By a law passed in the Colonial period, slaves were forbidden to carry firearms. Exceptions were frequently made to this law, and in such cases, slaves were granted a privilege that was ordinarily reserved for free men. In 1808 the Craven County Court entered the following statement in its minutes:

> Negro Jerry property of David Pearce is permitted to carry a gun on his master's plantation, the said David complying with the acts in such cases provided.[48]

In the following year, the court records the fact that John C. Stanly, wealthy free Negro of New Bern, could permit one of his slaves to carry a gun "on the lands and plantations of said John C. Stanley."[49] While the carrying of gun may not loom large as an evidence of freedom, it can

[46] *Greensborough Patriot*, December 23, 1854.

[47] *Western Democrat*, December 15, 1854.

[48] Minutes of the Court of Pleas and Quarter Sessions of Craven County, March, 1808. See also the minutes for the September term, 1808, when a similar permit was granted to March, the slave of John Tillman.

[49] Minutes of the Court of Pleas and Quarter Sessions of Craven County, September, 1809. In the Archives of the North Carolina Historical Commission, Raleigh, North Carolina.

hardly be disputed that it was a privilege ordinarily reserved for free men in the ante-bellum period.

Among certain individuals and groups, especially the Quakers, there was a considerable amount of sentiment in favor of giving the slaves the rudiments of an education. Very early in the history of North Carolina, the followers of George Fox became actively engaged in the education of the Negro. By 1731 some of the North Carolina slaves, under the tutelage of members of the Society of Friends, could read and write.[50] Thereafter, household servants were generally given the rudiments of an English education. In 1816 the North Carolina Quakers opened a school for Negroes which was to run two days a week for three months. "Men were to attend until they could read, write and cypher as far as the rule of three, and . . . females to read and write." In 1821 the slaveholders in the vicinity of New Garden were induced to allow slaves to attend Sunday School where they learned to spell, but when many non-participating slaveholders became alarmed over the possible consequences of such an undertaking, the practice was discontinued.[51] Although this undoubtedly checked the zeal with which North Carolina Quakers prosecuted their plans to raise the intellectual level among the slaves, it did not stop their activities altogether. Wm. Forster, a Quaker missionary from England, visited North Carolina in 1825, and made the following observation concerning his brethren:

> In the meeting for discipline, I endeavored to be faithful, and was favoured to feel some relief, especially in my concern to encourage Friends to greater diligence in educating the black children under their care, giving them an opportunity of hearing the Scriptures read, and bringing them constantly to meetings. They have no less than 500 individuals of that description under the care of trustees appointed by the Yearly Meeting; to all intents and purposes in the eye of the law, they stand as slaveholders,

[50] Woodson, Carter G., *Education of the Negro Prior to 1860.* (Washington, 1919), p. 46.

[51] Weeks, Stephen B., *Southern Quakers and Slavery.* (Baltimore, 1896), p. 231.

but there seems no help for it; the existing laws of . . . North Carolina do not allow of indiscriminate manumission. . . . I am very sorry to say that very little attention appears to have been paid to their education; but I think Friends are beginning to feel the necessity of exerting themselves a little more in this great duty.[52]

Among the other sects interested in the education of Negro slaves in ante-bellum North Carolina, the Presbyterians figured prominently. Regarding their activities in this area, Dr. Woodson says,

Despite the fact that Southern Methodists and Presbyterians generally ceased to have much antislavery ardor, there continued still in the western slave states, and in the mountains of Virginia and North Carolina, a goodly number of these churchmen who suffered no diminution of interest in the enlightenment of Negroes.[53]

As late as 1851, the committee on the state of the Presbyterian Church in North Carolina could make the following observation regarding the religious and educational life of Negroes under their care:

We are encouraged by the good attendance and the means of grace generally reported; by the fact that prayer-meetings are generally kept up in our congregations; that Sabbath schools and Bible classes are sustained in most of our churches . . . that increased attention is given to their instruction; that opposition . . . is maintained against intemperance, and against the causes tending to its prevelance.[54]

Although sentiment against granting slaves more of the privileges of free men was fairly general in the decade immediately preceding the Civil War, it is notable that in 1855 a goodly number of the citizens of North Carolina submitted a petition to the General Assembly asking for a revision of the slave code as it affected education and marriage. In part, they proposed,

[52] Forster, Wm., *Memoirs of Wm. Forster.* (London, 1865), Vol. II, p. 31.

[53] Woodson, *Education of the Negro*, p. 182.

[54] Presbyterian Synod of North Carolina, *Minutes of the 38th Session.* (Raleigh, 1851), p. 21. Some Episcopalians were also engaged in the task of teaching slaves to read and write. See the account of the activities of the Rev. Alexander Stewart in Joseph B. Cheshire, *Sketches of Church History in North Carolina.* (Wilmington, 1892), p. 73.

That the laws which prohibit the instruction of slaves and free colored persons, by teaching them to read the Bible and other good books, be repealed.

Turning to the matter of marriage, they said:

1. That it behooves us as Christian people to establish the institution of matrimony among our slaves, with all its legal obligations and guarantees as to its duration between the parties. 2. That under no circumstances should masters be permitted to disregard these natural and sacred ties of relationship among their slaves, or between slaves belonging to different Masters.

The memorialists admitted that they proposed "some radical changes in the law of slavery" but contended that these changes were demanded by "our common Christianity, by public morality, and by the common weal of the whole South."[55] Although this proposal did not find its way into the statutes of North Carolina, it indicates, as few documents do, the extent to which a number of North Carolinians were willing to go—in the hectic days of sectional controversy—in the direction of granting their slaves the privileges of free men.

If one would seek specific examples of slaves who enjoyed virtual freedom, they are not difficult to find. The records of North Carolina are literally filled with the accounts of slaves whose bondage was hardly more than nominal. Two examples, the lives of George Moses Horton and Julius Melbourn, have become classic in the history of antebellum North Carolina.

George M. Horton was the slave of Jack Horton, a farmer of Chatham, who "treated him very kindly." He was generally engaged in working on his master's farm, cultivating crops of corn and wheat. Whenever Horton wished to do so, he was permitted to "hire his own time" paying his master fifty cents a day. On such occasions, he would go to Chapel Hill and write poetry and love letters for the students at the University. His charge was twenty-five and fifty cents per item, depending on the palpable ardor of the suitor. "His love letters were quite eloquent and often, it is said, not only touched but captured the fair

[55] Woodson, *Education of the Negro*, p. 394.

hearts for which they pleaded." Some of his poems are well-known, due to the publication of two volumes of verse, the first in 1829 and the second after the war.[56] It is believed, however, that the following poem—a good example of his literary efforts—has not been previously published:

"The Pleasures of a College Life"

With tears I leave these academic bowers
And cease to cull the scientific flowers,
With tears I hail the fair succeeding train
And take my exit with a breast of pain.
The "Fresh" may trace these wonders as they smile
The stream of sciences like the river Nile,
Reflection of mutual beauties as it flows
Which all the charms of "college life" disclose.
This sacred current as it runs refines
Whilst Byron sings and Shakespeare's "mirror shines."
First like a garden flower did I rise
When on the college bloom I cast my eyes.
I strove to emulate each smiling gem
Resolved to wear the classic Diadem,
But when the Freshman garden [illegible] was gone
Around me spread a vast extension lawn.
'Twas there the muse of college life begun
Beneath the rays of erudition's sun,
When study drew the mystic forms down
And like the lamp of nature with renown.
Then first—I heard the Epic thunder roll
And Homer's lightning darted through my soul.
Hard was the task to trace each devious line
Through Locke and Newton bid me soar and shine.
I sank beneath the heat of Franklin's blaze
And struck the notes of philosophic praise,
With timid thoughts I strove the best to stand
Reclining on a cultivated land
Which often spread beneath a college bower
And thus invoked the intellectual shower.
E'en that fond sin on whose stately crown
The smile of Courts and States shall shed renown,
Now far above the noise of country strife
I frown upon the gloom of rustick life.[57]

[56] Battle, Henry P., "George Horton, Slave Poet," *North Carolina University Magazine.* VII (May, 1888), p. 229 ff. and Sterling Brown and others, *The Negro Caravan,* pp. 287 ff.

[57] MS. in the Pettigrew Family Papers, in the Library of the University of North Carolina. Unfortunately, it is not possible to date the poem since the manuscript contains no indication of when it was written.

While the above lines, obviously written for a senior at the University, are hardly more than mediocre doggerel, they reveal a smattering of information that came either from rather extensive reading or more or less constant association with individuals who studied a wide variety of subjects. "The Pleasures of a College Life," like other poems of George Moses Horton, reflect the life of a person who enjoyed privileges altogether inconsistent with his slave status.

One of the most notable examples of a slave who enjoyed virtual freedom is that of Julius Melbourn, whose name is now almost unknown even to students of the period. Born a slave in 1790 on a plantation near Raleigh, he was bought, at five years of age, by a British Naval Official's wealthy widow who lived in Raleigh. Under Mrs. Melbourn, Julius was well provided for and received a good English education. She had an excellent library to which he had free access. When he was ten years old, he was sent to a "select school" near Raleigh, but on account of the African blood in his veins, he was not permitted to remain. Upon his return to the home of Mrs. Melbourn, Julius obtained instructions from a Methodist minister, who was a regular visitor in the Melbourn home. During his leisure time, of which he had a sufficient amount, Julius studied in the Melbourn library and prepared his lessons for the minister's inspection. In this way, he secured an education comparable to that which Mrs. Melbourn's son was receiving at the "select school."[58]

When Mrs. Melbourn's only son was slain in a duel—said to have been fought concerning his mother's having reared a Negro as a gentleman—Julius was emancipated and made the sole heir to the estate of $20,000.[59] The prog-

[58] Julius Melbourn, *Life and Opinions of Julius Melbourn, passim.*

[59] For a recent discussion of the life of Melbourn after he obtained his freedom see *John Hope Franklin,* "The Free Negro in the Economic Life of Ante-Bellum North Carolina," Part II, "*The North Carolina Historical Review,* Vol. 20 (October, 1942), p. 369.

ress that Melbourn made after freedom was due largely to the training he received and the privileges he enjoyed when he was still a slave. If the accounts of the flogging of slaves and of their numerous privations at the hands of their masters represent one extreme in the treatment of slaves, the life of Julius Melbourn, who enjoyed virtual freedom at the hands of his benevolent mistress, represents the other.

Opposition to the practice of granting virtual freedom to slaves was as incessant, if not as vehement, in North Carolina as it was in other states of the ante-bellum South. It is interesting to observe, here, that many examples of virtual freedom—or, at least, the semblance of it—may be inferred from the very opposition to the practice which arose. As early as 1785, the lawmakers of North Carolina evidenced considerable concern over the conduct of slaves virtually free, and in an enactment of that year they revealed a number of facts that shed much light on this class of persons:

> And whereas there are many slaves in the said towns, who contrary to law have houses of their own, or are permitted to reside in the outhouses or kitchens of divers of the inhabitants, or in the houses of free negroes, mulattos, persons of mixed blood and others, and work and labour for themselves in several trades and occupations . . . Be it enacted . . . That no slaves shall be permitted to exercise any trade or occupation in the said towns [of Wilmington, Washington, Edenton and Fayetteville] without a certificate from the owner.[60]

At the beginning of the militant period of the slave controversy, the members of the North Carolina Legislature were still showing some concern over the activities of slaves virtually free. Their concern, at this time, was doubtless occasioned by several requests from citizens that additional legislation further restricting their movements be enacted. The citizens of Sampson, Bladen, New Hanover, and Duplin Counties asserted:

[60] Walter Clark, *State Records of North Carolina.* (Goldsboro, 1896), XXIV, p. 727.

That our own slaves are become almost uncontrolable. They go and come when and where they pleas, and if an Attempt is made to Correct them they Immediately fly to the Woods and there Continue for months and years committing grievous depredations on our Cattle, hogs and Sheep, and many other things, and as patrols are of no use on Account of the danger they Subject themselves to and their Property. Not long Since three patrols two of which for executing their duty had their dwelling and other houses burnt down and the Other his fodder Stacks burnt.[61]

If these protestations were all based on facts, it is clear that some slaves, against the will of their masters, were actively engaged in the effort to obtain virtual freedom. The Legislature took the advice of the petitioners and passed the following law:

And be it . . . enacted . . . That it shall not be lawful for any slaves to go at large as a freeman, exercising his or her own discretion in the employment of his or her time; nor shall it be lawful for any slave to keep house to him or herself as a free person, exercising the like discretion in the employment of his or her own time; and in case the owner of any slave shall consent or connive at the commission of such offense, he or she so offending shall be subject to indictment, and on conviction shall be fined in the discretion of the court. . . . *Provided* that nothing shall be construed to prevent any person permitting his or her slave or slaves to live or keep house upon his or her land for the purpose of attending to the business of his or her master or mistress.[62]

In the above enactment, even the exception made at the end of the law suggests that there were slaves in North Carolina—some with and some without their master's permission—who enjoyed virtual freedom.

One other example of protestation reveals the state of virtual freedom which some slaves enjoyed. In a letter to the editor of a Warrenton paper, Michael Collins said,

I wish through your paper to drop a few thoughts to the Citizens of Warrenton and its vicinity. . . . First we will take a view of the vilage on the Sabath day. . . . What do we behold, we see the streets lined with ox waggons and carts, loded with cotten, hay, fodder, cole, wood, etc. We also see negroes going from house to

[61] MS. in the Legislative papers for 1830-31.

[62] *Laws of 1830-31,* (Raleigh, 1831), p. 7.

House along the streets with their basks of Ducks, Chickens, eggs, potatoes, peas, rice, and onions, and to my astonishment they seldom fail to sell all of those articles before they leave town, and that too whether they have a permit from their master or not. What is the most dreadful thing [is that] after disposing of their produce we see them assemble around and in front of houses in town where the bottles of rum, whiskey, and brandy is handed out to them, by the way of windows and back doors, perhaps to the amt. of the produce sold by them; what is the next appearance that presents itself the afternoon of the same day we behold the streets infested with drunken negroes stagering from side to side and they pay no respect to person.[63]

That such a condition could have existed at any time in ante-bellum North Carolina suggests a laxity in the enforcement of the slave code that, of itself, made for the rise of a group of slaves who were almost completely beyond the pale of regimentation.

Thus, it can be seen that within the framework of the peculiar institution, there were innumerable variations and exceptions to the code which was accepted as the very symbol, as well as the means of the enforcement, of a uniform system of regulating the lives of the slaves. The variations and exceptions were not infrequently made by the masters themselves, who, for reasons of benevolence or economic necessity, found it desirable to grant to their human chattel an amount of freedom inconsistent with their legal status. It was not out of the question, however, for the slave himself to force society to accept him as an individual who was entitled to enjoy a state of existence that amounted to virtual freedom.

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[63] Michael Collins to the Editor at Warrenton, n. d., MS. in the Michael Collins Papers, in the Library of Duke University.