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Derogatory to the Rights of Free-born Subjects: Racialization and the Identity of
the Williamsburg Area's Free Black Population from 1723-1830

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A Thesis presented to the Graduate Faculty
of the College of William and Mary in Candidacy for the Degree of
Master of Arts

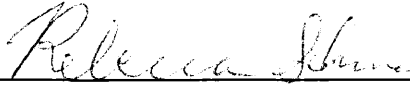
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This Thesis is submitted in partial fulfillment of
the requirements for the degree of

Master of Arts



Rebecca Anne Schumann

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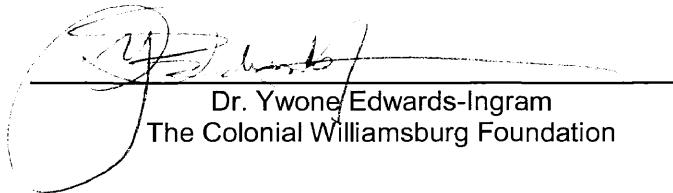
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ABSTRACT

Until 1782, manumission in Virginia was only granted through the approval of the general assembly and governor. As a result, Virginia's free black population was very small, primarily consisting of trained, free-born mulatto craftsmen. In 1782, however, Virginia's manumission law was revised, allowing slave-holders to free slaves through deeds and wills. This revision produced a six-fold increase in the state's free black population by 1790 and led to an influx of black unskilled laborers into this population. My study illustrates the effect of this revision on the identity of the free black community in the Williamsburg area through an investigation of the change in their material wealth from 1784 to 1815. An analysis of personal property tax lists reveals that free blacks had progressively less access to wealth following the 1782 law revision. This change may partly be due to the increase of untrained laborers into the free black community. However this finding also indicates that the change in Williamsburg's free black population following the 1782 led to a major impact in the interaction between whites and free blacks. Moreover my analysis shows that by 1815 free blacks preferentially chose to purchase slaves over livestock, which were previously extremely important to free blacks. It is possible that they were saving their money to purchase relatives and friends in order to manumit them. These changes point to a larger transformation of the identity of Williamsburg's free black population in an increasingly racialized society.

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Introduction

Over the past forty years major strides have been made in historical studies of the Williamsburg area including scholarship on the African American experience. However historians and archaeologists have primarily focused on the enslaved community. There is still a significant gap in research into the area's free black population and as a result they have frequently been left out of the history of Williamsburg. Scholars primarily present the lives of free blacks in terms of the restrictions placed on them and the ways in which these restrictions oppressed them. Scholars often ignore the different ways in which the free black community navigated, resisted, and at times even overcame these restrictions. Nor have they examined the ways in which actions Williamsburg's free blacks employed to exert agency transformed along with changing attitudes of both white elites and non-elites and with new laws that attempted to limit agency.

This thesis is part of the larger anthropological discussions regarding the development of the modern understanding of race as based on skin color, the relationship between law and culture, and the interplay between social agency and law. It follows the development of slavery as a racialized institution and the changing place of free blacks as part of this transforming system. It traces the ways in which laws were used by the powerful, for economic and social reasons, to both construct and reconstruct cultural ideas about race. It also examines the ways in which these new laws presented different challenges for free blacks, how

they impacted the identity of the free black community and altered both the means and purpose for which they attempted to gain and exert agency.

I examine the ways in which the enactment of two different manumission laws in Virginia, in 1723 and 1782, impacted the relationship between law, race, identity and agency in the free black population around Williamsburg during two separate time periods. This examination demonstrates the intertwined nature and mutual causality of the law and social practices, which, according to Christopher Tomlins, was in effect since the beginning of slavery in Britain's New World colonies (2010: 418-419) At the same time, my investigation provides a bridge between the research on early colonial interracial relationships and antebellum free black life to create a better understanding about Eighteenth century life for free blacks and reason for changes of the Nineteenth century.

The first period of my study begins in 1723, when the Virginia government passed a law severely restricting manumission. In order to be freed, it was necessary for a slave to have demonstrated meritorious service. Moreover this manumission had to be approved by both the governor and his general council (Morris 1996: 393). By 1782, there were only about 2000 free blacks in Virginia. Much of this population was concentrated in the counties around Williamsburg including Charles City, York, Surry, James City, and New Kent, the main geographic area of my study (Heinegg 2005).

In 1782, Virginia's manumission law was revised allowing slaveholders to free any slave through either deeds or will. This law engendered a major change in

the free black population. In an eight-year period, the free black population increased six-fold and by 1800, there were 20,000 free blacks in Virginia (Morgan: 490). Elites viewed this dramatic change as a threat to the racial order by suggesting that positions in the racial order were not rigid. Freedom was no longer restricted to those people born into it. Moreover an increasingly visible free black population, primarily comprised of former, slaves was a threat as it suggested to slaves that freedom was a more realistic goal. In order to account for this threat, legislators passed new laws which placed greater restrictions on free blacks. The second period of my study begins 1787, when the free black population in Williamsburg began to significantly increase. This period ends in 1830, after which Nat Turner's rebellion resulted in even greater restrictions to free blacks (Wolf 2006)

This study examines the interplay between law, race, identity, and agency as it pertains to the free black community of the Williamsburg area by addressing several questions. What is the connection between law and the social construction of race? How was law used to create and justify the system of racialized society that existed in the Williamsburg area between 1723-1786? Through what means and to what extent were free blacks able to increase their agency and resist their position in society and the treatment it entailed? How did historical events, both occurring in Virginia as well as other parts of the world, coupled with changes in the makeup of the area's free black community stemming from the manumission revision, impact the way in which free blacks were racialized? How did changing notions of race impact the identity of the free

black community, their attempts to gain agency, and the means in which they resisted their treatment?

In my investigation of these issues, I have relied on a number of historical documents, but especially those pertaining to the law and its practice. I used Virginia laws as the primary means to investigate the racial order and social structure which the Virginia government attempted shape between 1723 and 1782. Likewise I explored key changes in this area following the manumission revision. I also used court records to understand the extent to which these laws were carried out in the Williamsburg area in order to discern the racial order of the area. One of my main premises is that the degree to which Virginia's laws relating to free blacks were upheld around Williamsburg provides insight into the structural impediments that actually existed in the area.

Court orders also have a great potential to show the ways in which free blacks challenged their racialized place in the social order. For example, free blacks failure to list tithables could indicate a form of resistance against unfair taxation. If they brought complaints relating to particular restrictions, it would illustrate the use of the court system as a means of challenging the social structure. The particular restrictions which they challenged could provide some insight into their values. Finally, if free blacks were able to successfully bring suit against whites, it would illustrate that they had forged connections with the white society which further enabled them to divert their place in racial order.

I worked with a broad range of other historical documents including free black registers, wills, deeds, inventories, marriage records, and petitions. I used these documents to examine the how free blacks interacted with each other as well as other social groups including enslaved blacks as well as whites. I also employed these documents to investigate the types of property and aspects of social life which were most valued by free blacks during both periods. These documents provide insight into how free blacks viewed themselves and how they were viewed by others.

Finally, personal property tax lists, which were compiled by Paul Heinegg, were another key source of data, especially in discerning changes in property ownership overtime (Taxation of Free African Americans). Such changes may reflect not only changes in the means in which free blacks diverted the racial order and social structure, but also the parts of the racial order they attempted to negate. Personal property tax lists for the period reflect not just the ownership of enslaved people and luxury items, such as carriages, but also ownership of more common items such as livestock. In order to discern changes in property ownership between these two periods, I analyzed and compared data from 1784 and 1815. Moreover as tax lists were recorded every year from 1782 onwards, they can be used to examine changes in the population. When people appear on the tax list one year but not the next, it often times indicates that they have moved out of the area.

. In the next chapter, I outline my theoretical framework, which is based on anthropological ideas of racialization and the use of law in the social construction

of race, identity, agency, and resistance. In chapter three examine the racial order which was in place in the Williamsburg area during the first period and the ways in which free blacks were racialized. Next, I expound on how this racialization coupled with the economic and social conditions of the time engendered specific forms of resistance to the racial order by the free black community. In the fourth chapter, I explain how the population increase beginning in 1787 threatened the racial order and led to new ways of racializing free blacks. I investigate patterns in property ownership using personal property tax lists in chapter five. I posit that the patterns in the first period echo the means of resistance employed by free blacks. A change in these patterns in the second period suggests a change in both free black identity and forms of resistance. Finally in chapter six, I describe how the change in property ownership is reflective of a larger pattern of changes in identity and resistance in the free black community.

Theoretical Background

According to Charles Orser, in the process of racialization, a socially constructed racial group is compared to other racial groups and judged to be inferior to some and superior to others, creating a racial hierarchy. Men and women are assigned to essentialist groups which allow them to be viewed as socially or biologically unequal due to either cultural practices or “phenotypical or other readily identifiable characteristics” (Orser 2004, 2007, Smedley 1993: 6, 9). Orser also argues that in a slave society, a group’s status as free or enslaved may also play a role in how its members are racialized (Orser 2004: 150). This notion of racialization is crucial to my thesis as it suggests that a group’s position in a racial order is not solely based upon skin color, creating the possibility that people who are phenotypically similar may be placed in different positions in the structure.

Audrey Smedley posits that racialization began as a way for people to “interpret human differences, both biological and cultural” (1993: 6). Breen and Innes point to this idea when they observe that while early Virginian clerks noted in records when a person was a “negro,” next to the names of others, they included countries of origin. The term “negro” was just a way to classify a person from Africa during a time in which people were identified based on their origins (1980: 97). Smedley argues that racial classifications quickly took on stereotypes and “prejudgments about the nature and social value of these differences” (Smedley 1993: 7).

Orser views racialization as a means for dominant groups to “divide and segment” various people and “identify and stigmatize” those who are considered racially inferior (Orser 2007: 10). It creates social groups between people which may not otherwise have existed and “seeks to naturalize” specific distinctions (ibid). The placement of racial groups in laws makes racial categories seemingly immutable, natural, and permanent (Smedley ibid: 150). Epperson further argues that because “The Law is purportedly eternal, changeless, and above class and individual interest,” and seemingly exists “above, or outside of, daily human interaction,” law not only reifies race, it reifies the racial order as well” (1990: 324).

Epperson and Smedley also acknowledge that despite their fixed appearance, racial categories demonstrate historical inconsistencies (Epperson 1990: 326, Smedley 1993: 32, 100-101). Prior to European expansion, Epperson claims the fact that “negro” was juxtaposed to “Christian” instead in early Virginia slave laws shows that at the time, racial categories were based on religion rather than skin color (Epperson 1990: 326). As Tomlins points out using Shakespeare’s *Titus Andronicus*, the idea of racialized slavery, where racialization was partially based on skin color, was present in the minds of Europeans by the time Virginia was colonized. However his subsequent discussion illustrates that racialization also was tied to differences in religion and culture, with perhaps the most emphasis placed on religion (Tomlins 2010: 403-424).

With the rise of Christianity among African slaves, slave-owners felt it was necessary for slaves to be racialized differently in order to justify the continuance

of their servitude. It was at this point in time which the term white first began to appear in Virginia laws and the roots of the modern day notion that race is primarily determined by skin color began to form. Through the creation of new laws which juxtaposed whites to “negroes, mulattoes, and Indians,” describing the differential rights of each group and proscribing their actions with other groups, the Virginia laws helped to create both racial groups and a racial hierarchy (Epperson 1990: 328-330).

While in reality racial categories and identities are not fixed, Orser notes that social problems can arise when laws enable racial categories to appear mutable. The implication that racial categories are unfixed threatens the racial hierarchy by suggesting that it has a degree of flexibility (Orser 2007: 13). The revision of Virginia’s manumission law most likely threatened the racial order by allowing people to move from one location in the racial hierarchy to another, from enslaved to free black, through two separate means, manumission and passing as free.

Changes in racialization would have also impacted identity by changing the degrees to which free blacks viewed themselves as similar or different to whites and enslaved blacks. By identity, I refer to Kathleen Wilson’s notion of an “historical process that is tentative, multiple and contingent of the negotiation between where one is placed and where one places oneself within social networks ” (2009). As such, identity is fluid, dynamic and based not only on the ways in which people perceive themselves, but also the labels that are placed on them by outsiders. Racialization plays a major role in the creation of identities.

Laws create racial groups, linking “disparate individuals in webs of interaction and interconnected awareness” engendering some of the social networks which define identity. (Orser 2004: 5).

This relationship between law, racialization, and identity makes this study part of a much larger discussion in anthropology regarding the connection between culture, economics, and law. Anthropologists often see these various factors as working together in a dynamic relationship: culture informs law and law structures culture” (Collier et al 1995: 3). Laws are culturally constructed based on “local knowledge.” At the same legal ideas “and institutions structure social interaction” (Yngvesson: 1989: 1690). According to Barbara Yngvesson, the judicial process is primarily based on the local social world, shaped by local knowledge and practice as well as ideas about morality. Once it is created, law then helps create and structure “official understandings” of the social world through its use of specific terms and its ability “to shape cultural understandings of fairness, of justice, and of morality” (ibid: 1690-1692). Moreover as Katherine Newman claims, law legitimates the social order it creates by making the “existing social relations normal, desirable, and just (Newman 1983: 19).

While laws are shaped by culture, they are not “part of a pre-existing culture but are created; formed in “historical time” (Moore 2005: 176). They are produced through relations of power, in which “specific configurations of laws are desired.” Law can also be employed in a variety of ways by those acting in their own interests and are often created to serve the economic interests of the powerful (Newman, Collier et al.1995). They rely on and create identities which are

founded upon “socially constructed economic interests” Collier et al. 1995: 5). By denying specific groups freedom and agency, law structures the preferences and identities of these groups. Those with more power and agency can more easily use the law to further their interests better than the weak and subjugated” (Collier et al 1995, Moore 2005).

Subjugated people, however, often find means to exert agency and overcome some of the difficulties which law places on them for not having specific identities. While the powerful may create laws, the subjugated challenge and transform these laws. Law is not just a tool of domination but also provides a site of “resistance, refusal, struggle” (Comaroff: x). The hegemony of the social structure, shaped through the legal system is continuously “resisted, limited, altered, and challenged (Yngvesson 1989: 16910).

At times these ways of negotiating the racial order were obvious but more often they were concealed and relied on a mixture of astuteness and seized opportunities. Michel de Certeau’s examination of everyday practices provides a useful framework for understanding these means of navigating social constraints. De Certeau claims that dominated people often rely on certain actions to manipulate or calculate power relations: strategies and tactics. Strategies occur in a location where a subject has power and can observe its enemies, manage threats, and plan for future (De Certeau: 35-36). While members of Williamsburg’s free black community may have used strategies, this thesis primarily focuses on the tactics they employed.

Tactics are “calculated actions” undertaken by people in a location in which they are powerless, “within enemies’ field of vision”. They are the “art of the weak, victories of the weak over the strong, where both the weak and strong can be individuals, a group, or an imposed order. Tactical maneuvers do not involve planning but instead take advantage of opportunities as they arise” (ibid: 36-37). The weak must constantly “manipulate events in order to turn them into ‘opportunities’” (ibid: xix). Tactics include “clever tricks, knowing how to get away with things, ‘hunter’s cunning, maneuvers, polymorphic, joyful discoveries” (ibid). They occur when people insinuate into an imposed system and use, manipulate or divert “the constraining order.” They subvert their place in that system, by employing “laws, practices, and representations,” in way which is unintended or foreign to the dominant group, “turning it to their advantage” (ibid: 33). These small actions redefine cultural structures on a small level every day (Sahlins: 72).

Changing circumstances, both from inside and outside a region, lead to reactions based on interpretations of these circumstances, constructed by this changed culture. As a result of these reactions, new laws are created which lead to new cultural understandings (Collier et al 1995: 12-13). These new laws can discard or transform the categories, reshape identities, place different burdens on groups, and lead to new struggles for agency and challenges to the structure (Collier et al 1995: 12-13). These used new terminology to create new social groups and restrict the rights and agency of non-whites. Race-based slavery continued but the idea of race was changed, presenting increasing burdens on the free black community.

By 1723 free blacks in the Williamsburg area were faced with many restrictions. According to Governor Gooch, the purpose of these restrictions was to make free blacks “sensible that a distinction ought to be made between their offspring and the descendants of an Englishman” (Enslaving Virginia: 122). At the same time the rights which free blacks were still afforded coupled with the terminology, or lack thereof, associated with them provided a clear distinction between free and enslaved between them and their enslaved counterparts. The 1723 manumission revision solidified the distinction between free and enslaved blacks in the racial order by ensuring all future members of the free black community were born free, enabling whites to feel comfortable racializing free blacks in a different manner.

This differential treatment under the law caused free and enslaved blacks to form separate identities as both groups faced extremely different struggles in everyday life. Free blacks used a variety of means to exert their agency, challenge the burdens placed on them by law, and increase the rights of the free black community. They integrated physically, socially, and economically into Williamsburg’s larger freeborn community. At the same time, many free blacks also attempted to socially distance themselves from enslaved blacks.

The major transformation of the size and make-up of Williamsburg’s free black community threatened the area’s racial order, previously understood as rigid, by promoting the idea “that flexibility in the hierarchy was possible.” The change in the manumission laws suddenly enabled enslaved people to move to a different level of the hierarchy through different means. Enslaved blacks moved from

being considered property to being considered free humans. Slave-holders were increasingly had to deal with the humanity of their enslaved individuals. This new flexibility in the racial order threatened the economic system and status quo of the social structure in the Williamsburg area and Virginia as a whole.

Virginia's legislature enacted new laws as a response to the changing make-up of the free black population following the Revolutionary War in. These laws quickly transformed the racial order, changed the ways in which free blacks were racialized. Legislators who had a vested interest in slavery, believed these laws were necessary to protect the institution of slavery from the "threat" of a growing free black population. Moreover they needed these laws to justify the retention of the institution while they were evermore confronted with the humanity of their enslaved workers. They placed new restrictions on the free black community, created new struggles for agency, and engendered new means in which they navigated and subverted their place in society. Moreover, free and enslaved blacks worked together to carry out these methods. Their purpose was to further the freedom of the area's African American population, illustrating the new, shared identity they formed through common struggles.

Racialization and Free Black Life From 1723 to 1786

The varying treatment of free blacks in Virginia during the 18th and 19th centuries was closely tied to the development and changes in raced-based slavery in Virginia. The initial growth of slavery in Virginia unfolded as a complex multi-phase process with significant regional diversity (Coombs 2009: 253-254). Between 1619 and the 1640s, a “broad segment of the gentry” acquired at least a few slaves (ibid 247-250). By the end of this period, the majority of colonial governing elites had more slaves than servants in their households.

Early racialized slavery in Virginia was relegated to non-Christian, barbarian others (Tomlins 2010: 420-423). Europeans initially believed that Christians were not to be kept as slaves, for to do so would ruin Christianity (ibid). Some slave holders manumitted enslaved Africans who converted to Christianity and a few enslaved Christians were able to successfully sue the government for their freedom. Moreover during this time period, free black Christians were entitled to the same rights as white Christians. Several free black men even had white wives (Breen and Innes 1980).

During the second phase, which lasted from the late 1640s to the 1670s, “county level elites” acquired increasingly more slaves. Laws governing race based slavery and the treatment of Afro-Virginians first appeared in the 1660s. These slave laws were created not in anticipation of an expansion of slavery but because office-holding elites were already reliant on slave labor (Coombs: 262).

Between the 1660s and 1680s the number of enslaved individuals in Virginia significantly increased, the legal standing of slavery was established, and “hereditary enslavement” became an increasingly firm condition, a large portion of non-elites acquired slaves and the first “fully enslaved labor forces” began to appear (Coombs: 254 also see, Menard 1977, Morgan 1975). Through each phase the number of slave-holding non-elites in different regions of Virginia greatly varied. By the beginning of the 18th century, about 70% of non-elites around Williamsburg owned slaves (Coombs 2009: 256-260).

The institution of slavery in Virginia continued to develop in the 18th century. The 1723 law restricting manumission was part of a set of laws legislators enacted that year designed to amend Virginia’s 1705 black code. Both of these codes were made in reaction to slave revolts. The manumission law then was just another step in the development of beliefs regarding the legal rights of free and enslaved people of African descent.

In 1723 free blacks were stripped of their position as citizens. They could not vote or hold office. Before giving testimony, free blacks were required to take an oath where they acknowledged that they would be whipped and have their ears nailed to the pillory and cut off if it was found they had provided perjured information. Whites were not required to take this oath. In general the punishment for free blacks tended to be harsher than those for whites for the same crimes, and at times, was equal to those of enslaved blacks (Hening 1819, also see Tomlins 467).

Free and enslaved blacks were treated similarly in other matters as well. Bruton Parish Church required all blacks to enter through a separate entrance than whites (Lounsbury 2011). Beginning in 1723, free black women and the wives, enslaved or free, of free black men were considered tithable (Hening: IV 133). They could not serve as a witness in court cases except against other “negroes, mulattoes, and Indians” (Morris: 232-233). Finally, free blacks were prohibited from marrying whites (Nicholls 1984: 53).

During this first period, there was a concentration of free blacks in the Williamsburg area (Nicholls 1990: 9). The vast majority was born free and of mixed ancestry; many were the children of black fathers, either free or enslaved, and white or Native American mothers. Others were the children of free black mothers. Some were descended from families who had been free prior to the 1723 law. Most free blacks in this area were members of one of several different families who were descended from white women (Heinegg 2005).

As much of the free black population was born out of wedlock or to an indentured mother, especially during the early part of this period, a preponderance of the population was forced into indentured-apprenticeships. A law enacted in 1705 required all free black children of white mothers to be bound out as apprentices until the age of 31. The children of free black women who were still serving their indenture were also under bondage until the age of 31 (Hening: III 453). This was much longer than the term for which white, extramarital children were bound illustrating the perceived racial difference between free blacks and whites. However court records indicate that if their

master died or did not treat them fairly, free blacks were not always required to serve the full term of their indenture (Brewer 2005B, Hart 1983, Weisiger 1986). Furthermore, other than the age, the terms of the apprenticeships were the same. Both free black and white indentured-apprentices were required to learn not just a trade but also reading and writing (Nicholls 1990: 99).

Free blacks were allowed some rights not afforded to slaves. Free black householders and those residing in the country were allowed to own guns (Hening: IV 131). Around Williamsburg, a few exercised this right; John Rawlinson, Lucy Jasper, and Abraham Brown Sr. owned guns (Dance 1998: 8, York Probate Inventories.) They could also freely move between counties in search of employment. Free blacks were allowed to own property, including land, personal property, and slaves for the purpose of labor. They could earn money, create wills and inherit property, including land and personal property. Thus free blacks could conceivably obtain successful employment, become wealthy, and utilize inheritance laws to pass down the wealth to other family members (Morgan: 485).

The terminology used in court records, church records, and tax lists also provides insight into the different ways in which free and enslaved blacks were racialized. During this first study period, free blacks are often, although not always, referred to as either “mulatto” or “negro” in court orders and birth records. However, these terms do not appear attached to their name in any other records, including marriage records, deeds, or wills. On the other hand in almost all documentary records, enslaved blacks are referred to as “negroes” (Brewer

2005A, Brewer 2005B, Chappellear, Hart Knorr 1982, Pollock 1996, Weisiger 1986, Wright 2005).

Furthermore, an examination of personal property tax lists reveals the interesting fact that there was no separate category for free blacks even though the tax code required one (Leigh et al. 1819: 28). Free black who were heads of households were counted with whites. Enslaved blacks however were always counted with blacks.

Year	Name	White	Black	Black born	Black mul	Black school	Black school	Black school	Black school	Black school	Black school
1790	James Garrison	8	6		3						
20	Richard Ellis	1	2	1	2						
	John Ellis		1								
1790	Elizabeth Fuller		1								
Jan 10	William Tolson	1									
25	Henry Thomas				1						
18	William Thomas	1			1						
24	Robert Thomas	1			1						
10	Thomas Thomas	1									
18	Stephen Thomas	1									
	John Taylor	1									
Jan 9	Carbin Griffin		1	2	2						
	William Gosley	1	1								
10	Thomas Gillet	1		1	1						
	Charles Goodman	1		1	1						
	John Gillet	1	5	1	3						
13	James Garrison	1			3						
21	John Garrison	1			3						
	Richard Garrison	1	6	1	5						
26	John Garrison	1			3						
	Simon Gillet Knight				2						
28	Henry Grant	1		3	3	2					
	John Grant	1									
	John Gillet Knight				3						
29	Rubin Gillet	1									
30	John Gillet	1	5								

Figure 1: A Personal Property Tax List from 1790 which includes free black Rubin Gillet, who is counted as white.

Moreover in the Bruton and Middleton Parish records from James City and New Kent Counties, the baptism records of free black children are contained in the list of baptisms of whites (Chappelear). Finally, almost every law which pertained to free blacks also pertained to Native Americans, including the 1723 law requiring the taxation of women, which was engendered from a complaint specifically regarding free black (Winthrow 2010: 10). These laws and use of terminology created a racial order where free blacks were seen as essentially different from enslaved people despite similarities in skin color.

The differences in both racialization and status meant that free and enslaved blacks had different experiences of everyday life, resulting in separate identities for free and enslaved blacks. Several free blacks, like James Berry and Charles Hopson of York County and William Charity of Surry County, helped to capture runaway slaves. Another free black, Freeman Brown, of Charles City County was paid to watch over the slaves of his white neighbors while they were away (Heinegg).

Several wealthy free black men, such as John Insko Bee, Simon Gillett, and Peter Gillett, who were all married to free black women, engaged in sexual relationships and had children with enslaved women (Heinegg). Despite the fact that all three of these men were wealthy, slaveholding free blacks, they never attempted to purchase their family members. Nor do these men appear to have provided for these family members in their wills (Heinegg). Perhaps this absence of familial activity was another indication that free and enslaved blacks belonged to separate groups in the social structure. The need for free blacks to stress their

similarities to whites and differences to enslaved blacks in order to demand equal treatment provided to whites may, have also played into the decision of these men.

In 1723, Williamsburg was the capital of Virginia and a thriving city, both economically and socially. The positive economic environment in the Williamsburg area during the colonial era enabled anyone with the skills, either white or black, to obtain employment (Enslaving Virginia 1998: 286, Nicholls 1990: 136-142). The distinct ways of racializing free blacks enabled coupled with the city's positive economic economy enabled them to integrate into the area's larger freeborn community physically, socially, and economically. Through this integration, free blacks used their agency to reject their unequal treatment under the law, advance claims toward property and safety and construct and reinforce their own sense of identity as equals in the larger freeborn community.

Free blacks turned forced indentured-apprenticeships, used the government to prevent "illegitimate" children from being a "nuisance to society" and to increase the labor force of those who relied on indentured servants, into a means of gaining employment. These apprenticeships enabled individuals to gain the training necessary for specific trades, as well as the ability to read in write. The community was very conscious of the way in which these apprenticeships could be used to negotiate their place in the racial order. In fact, several individuals who were, who were not required to do so under law, voluntarily apprenticed themselves (Brewer 2005A, Weisiger 1986).

Many used the abilities they gained to find employment in Williamsburg. Men often worked as coopers, carpenters, and carters; while women were often seamstresses, midwives, and cooks (Nichols 1992: 134-133, Brown 1996: 237). A few were also employed as blacksmiths and shoemakers. Several free blacks obtained positions at the governor's palace. Adam Waterford was, at one point, the exclusive cooper for the governor and Lydia Cooper worked in the Palace kitchen as a cook. Simon Gillett frequently played the fiddle at Palace balls (Nicholls 1990, Matthews 2000: 52-53). Free black planters and laborers who worked in the more rural areas of Charles City and Surry Counties often brought their goods to be sold at the Williamsburg marketplace.

Through this economic integration free blacks forged connections with white patrons, some of whom were very prominent individuals in the community including religious leaders, legislators, and wealthy planters. For example, through his job as a carter, Matthew Ashby became close friends with the Reverend James Blair. Numerous estate payments to free blacks throughout the area further demonstrate the working relationship between free black craftsmen and planters and white patrons (Brewer 2005B, Hart, Hopkins 1992, Weisiger 1986, Wright).

Free blacks politically integrated into the Williamsburg community through their employment of the government as a means to protest unequal treatment. Many of those who were forced into indentured-apprenticeships frequently complained to the courts that it was unfair to force them to apprentice until the age of thirty-one (Brewer 2005B, Haun 1993, Weisiger 1986). While the courts did not decide

in their favor, in 1765 the government admitted that this law was unreasonably severe and amended the length of apprenticeship to twenty-one for men and eighteen for women (Hening: VIII 134). This change meant that the terms of forced indentured-apprenticeships were the same for both whites and free blacks.

In addition, the free black community around Williamsburg frequently protested the unequal taxation of free black women. They began their resistance by simply refusing to pay taxes. Surviving court records show numerous examples of both free black men who failed to pay taxes on their wives and daughters and free black women who failed to pay taxes on themselves. However, when called to the court to answer for these charges, many free blacks were able to pay the taxes, indicating that it was not lack of funds which had prevented them from listing themselves, wives or daughters as taxable (Brewer 2005B, Haun, Weisiger 1986). This performance was a tactical maneuver, “a guileful ruse,” designed to avoid and dispute this taxation without any lasting consequences (de Certaeu xix) Many of the same individuals employed this maneuver over several years, turning the county courts into a means of subtly protesting unequal taxation. Several women went further and argued in court that they should not have to pay these taxes (Brewer 2005B: III, IV).

The eventual outcome of the fight against the taxation of “other free” women confirmed the distinction between free and enslaved blacks. This resistance movement culminated in 1769 when group of free blacks, most from the Williamsburg area, petitioned the General Assembly to exempt free black women

and the wives of free black men from taxation. They took advantage of the general outcry and resistance of the colonists against unfair taxation such as the Townsend Act and Stamp Act. As socially integrated members of a community which was one of the political centers of the colonists' resistance, they were no doubt aware of this public antipathy against unfair taxation. They shrewdly seized this moment as a chance to overturn this taxation they loathed. They argued their case using free black Anthony Johnson's successful petition against this specific form of taxation in the 1640's as a precedent (Matthews et al 1998: 65).

The Virginian government agreed with their petition. New legislation was passed declaring that such taxation was "very burthensome and is moreover derogatory to the rights of free-born subjects" and exempting all free Negro, mulatto, and Indian women and all wives other than slaves of free Negroes, mulattoes, and Indians" from such taxes (Hening: VIII 393). The free black community successfully manipulated pre-Revolutionary events and sentiments to create an opportunity in which could gain the sympathy they needed to remove this taxation. Through their integration, free blacks employed the political system to put forth claims to equality. The fact that these claims were recognized by whites reinforced the free black community's identity as equals.

Free blacks also physically and socially mixed into the larger freeborn community. Many of them lived in or near the city proper. Some, such as Mary Roberts and Lydia Cooper, who could not afford to purchase land, rented property in James City and York Counties. Others used their wealth to purchase land. Members of the Banks, Cumbo, Canaday and Rawlinson's families owned

land in James City County close to Williamsburg (Brewer 2005A). Edward Berry owned 100 acres in York County. Adam Waterford purchased an expensive house lot in Williamsburg near the Palace (Matthews: 51-53). John Rawlinson, a shoemaker in Williamsburg in the 1770s, owned eight house lots, worth £6,000 in 1780 (Nicholls 1990: 129).

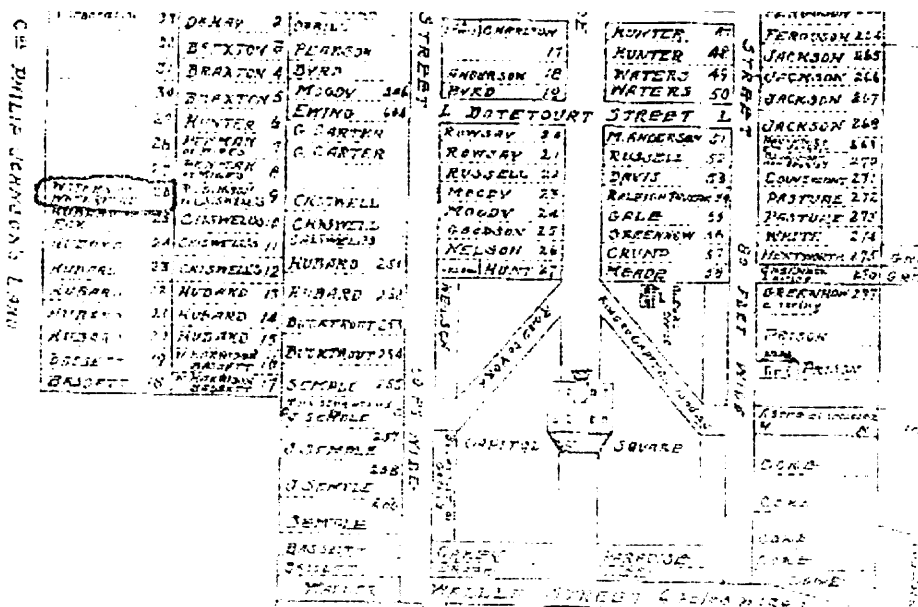


Figure 2: A Colonial Map Showing the location of Adam Waterford’s House Lot

Free black planters often resided in the outlying Surry and Charles City Counties. In Charles City County, free black families including the Browns, Coleys, and Harrises owned land. Abraham Brown paid £ 96 in 1769 to purchase 155 acres (Weisiger 1986: 18). When he died, Brown owned over 350 acres (Dance: 6). In Surry County, where land was relatively inexpensive, families like the Banks, Peters, Charity, owned tracts of at least 100 acres in land (Hopkins). By 1782, John Debrix owned 280 acres (Heinegg). Numerous others owned at

least 50 acres of land (Hopkins). These families frequently spent time near the city visiting with relatives, attending the market, and marrying and baptizing their children at Bruton and Middleton Parishes (Chappelear).

Free blacks throughout the area appear to have been on friendly terms with their white neighbors. Morris Evans of York County appointed his neighbor and friend, John Washer, as the trustee of his estate (Brewer 2005B: IV 117). In his will, Jacob Tann of Surry appointed his white neighbor William Dunn as his executor and listed John Harrison as one of his friends (Hopkins:). The Brown family of Charles City County was friends with white planters Major Wilcox and James Parrish as well as planter and legislator Furneau Southall (Dance: 148-150).

Through their deliberate integration into free blacks forged connections with members of the local white community, including some of the elite. They used these networks to advance their freedom and agency and challenge their place in the social structure. They capitalized on these networks, turning them into a tactic that enabled them to increase their agency despite the restrictions which law placed on them.

Through this integration, some families in the area, such as the Canadays, Cumbos, Gilletts, Rawlinsons, Gibsons, and Browns became quite prominent both based on the amount of wealth to which they had access and their connections with local white elites. At the same time, these families remained closely connected with their own community. Ties between different families were

often maintained through inheritances, deeds of gifts, marriage, and by providing security bonds (Brewer 2005B, Chappellear, Knorr, Morgan: 485, Weisiger 1986). Marriage records from counties like Surry, New Kent, York, and James City indicate that early free black families frequently intermarried, increasing their size.

These marriage patterns and close-knit relationships also created economic and social support networks (Chappellear, Knorr) among members of this “other free” segment of society. While many free blacks remained poor, these support networks enabled them to survive, providing them with the means to buy necessities, pay taxes, or post bail (Morgan: 485). Moreover, these networks gave members of the community access to the personal connections of friends and family members. It was to the advantage of community members to intermarry. This interest coupled with separate identities meant that few free blacks married to enslaved people (Nicholls 1990). Matthew Ashby who was married to Ann, the slave of Samuel Spurr, is the most noteworthy exception. These marriage patterns can be viewed as another tactic which further enabled free blacks to resist the unfair treatment aimed at them.

With the connections they made with neighbors and clients, they hired white lawyers, who were willing to represent them, and used sympathetic whites as witnesses on their behalf in order to bring successful suits against members of the white community. While these suits were frequently for debt, they also brought criminal charges against whites (Brewer 2005, Haun). In 1746, Daniel Armfield relied on testimony from Joseph Lark and Pearson Pickett to

successfully sue Edward Fuller for assault, trespass and battery (Brewer 2005B: VI 108, 113, 119, 126). In 1770, Joseph and Elizabeth Bartley, of Surry County, brought these charges against William Wilson (Heinegg: 109). In 1778, Edith Cumbo successfully brought trespass and assault charges against Adam White (ibid: 372).

They also used white witnesses and lawyers to defend themselves in court. In 1744, through the help of her witness Thomas Cobbs, free black Jane Poe of York County was able to successfully defend herself in a suit for a cow and a calf brought against her by the distinguished Virginian planter Landon Carter (Brewer 2005B: VI 28, 38, 40). Thus through these connections, free blacks advanced their own claims to property, personal safety, and most importantly equality. The fact that whites helped free blacks in these cases demonstrated that despite the racialization imposed by law in everyday interactions some whites may have viewed them as equal, reinforcing the free blacks claims to equality.

1782 Manumission Revision and New Racialization

Through the work of the Quakers and the influence of post-Revolutionary War spirit of equality, Virginia's manumission law was revised in 1782 to allow slave holders to emancipate slaves above the age of eighteen through last wills and testaments or deeds proved in the county court by two witnesses (Morris: 393-394). Children could be manumitted but were not entitled to their freedom until they reached the age of eighteen. While some slave owners only emancipated one or two highly skilled or domestic slaves, in about 70% of all manumission deeds issued from 1782 through 1793, "manumitters freed all of their slaves" (Wolf: 53). At the same time, the Virginia General Assembly emancipated many slaves for their services to America during the Revolutionary War. This act coupled with the change in the manumission law had a major impact on the size and makeup of Virginia's free black population.

According to John Russell, by 1784 the free black population in Virginia doubled (1913: 61) St. George Tucker estimated that by 1790 the free black population had increased to 13,000 individuals, more than six times the size of the population prior to the Revolutionary War. In 1800, he estimated that the population had further increased to 20,000 individuals (Morgan 1998: 490). The free black population in Williamsburg did not change much until 1787, when it began to dramatically increase. This increase in population stemmed in part from the large number of manumissions by local slave owners such as George Wythe, William Ludwell Lee, and Samuel Hargrave (Heinegg, Manumission Index).

At the same time there was a movement of newly freed slaves into the area. In 1780 then governor, Thomas Jefferson, moved Virginia's capital from Williamsburg to Richmond. This movement resulted in the loss of many local businesses. By 1782, one-fourth of its pre-War population had left Williamsburg and the town sunk into a depression (Kelly 2000: 71). As a result land around Williamsburg was readily available at prices which recently manumitted slaves could afford. Again it is impossible to tell the extent to which the free black population increased as we do not know how large it was prior to 1782, but by 1790 there were nearly 1,500 free blacks living in the Williamsburg area (Nicholls 1984: 61). In Surry County, the free black population represented nearly 12% of the entire free population of the county. In Charles City and York Counties the free black population represented nearly 15% of the total free population of these counties (Heinegg 2005).

The change in Virginia's manumission law led to an influx of former slaves into the free population creating tension by suggesting one's position in the racial order was not necessarily permanent and thus the structure was not as rigid as white elites would have wanted. Until this point, freedom was restricted to those born into it. However, suddenly enslaved people, who had heretofore been firmly placed in one location in the racial order, could be freed allowing them to move to a different location. Moreover, with the number of recently freed slaves flocking to the area for cheap land, it was difficult to distinguish between new members of the free black community and fugitive slaves, potentially enabling slaves to pass as free. This ability to move to a different location in the racial order suggested

there was mutability in previously established racial categories and thus threatened the racial order.

Anxiety among whites increased, paralleling the rising size and percentage of former slaves into the free black population. Whites worried that the growing visibility of free, former slaves could encourage enslaved blacks to think that slavery was not "natural" and that enslaved would become jealous of the rights afforded to former slaves. Thomas Robertson, for example, claimed "if blacks see all of their color slaves...they will be content. But if they see others like themselves free and enjoying rights they are deprived of, they will repine (cited in Wolf: 124-125).

Politicians also feared that free blacks would ally with slaves and "incite slaves to steal and rebel" (WPA 1940: 114). St. George Tucker claimed they would become "vagabonds, robbers and murderers" posing a threat to "the innocent descendants of their former oppressors" (Tucker cited in Ely 2004: 198). This fear was felt among whites throughout Virginia. Robertson argued that "Those blacks who are free obtain education... they can thus organize insurrection. They will no doubt unite with the slaves... it is free blacks who will instill into the slaves ideas hostile to our peace" (Robertson cited in Wolf: 125). The anxiety felt in around Williamsburg began to permeate the white elite society throughout Virginia following the start of the Saint Domingue Revolution in 1791, which was a slave rebellion. Gabriel's attempted rebellion in Richmond only served to increase this anxiety (Wolf: 115-119).

As more than 50% of the Williamsburg's population was enslaved, these anxieties were legitimate. (Matthews: 53). The fear felt by the white population around Williamsburg was especially heightened on Sundays when growing presence of the growing free black population as well as their potential ability to interact with slaves was especially clear at local black, Baptist churches. Williamsburg resident James Semple asked for arms from the state in order to control the number of "free negroes and mulattoes as well as slaves" who appeared in Williamsburg to attend the services at the Baptist Church (Nicholls 1990: 102). The poor economy of the area may have further increased anxiety as there could have been worry that the growing number of free blacks would take jobs away from the white population. In 1787, Delegates from the Williamsburg area attempted to introduce into law a measure which would force all manumitted slaves to leave the states (Wolf: 114). Their attempt failed but the government would soon begin to enact new laws designed to significantly restrict the rights of free blacks.

To stabilize the racial order, white legislators enacted new laws to racialize free blacks in similar means to enslaved blacks, making their lives increasingly difficult and uncomfortable and threatening their freedom. These laws stripped free blacks of many of their rights, especially those which legislators may have felt that enslaved blacks would envy. Moreover, through these new laws, politicians may have hoped to rid the state of free blacks, either through re-enslavement or by encouraging them to leave the state.

Many of these new laws were designed to prevent the growth of the free black population and keep track of its members. In 1793, the state government enacted a law which prevented free blacks from moving into Virginia (Wolf: 117). In the same year, the government also proclaimed that all free blacks laborers had to register in the county in which they lived and obtain a certificate of freedom. This act was both designed to help the local white population identify members of the free black community and prevent enslaved people from hiring themselves out by pretending to free (Hudgins 1995). In 1801, the state declared it necessary for free blacks to demonstrate they had means to earn a living before they moved to a new county. If they could not demonstrate this to the court's satisfaction, they were declared vagrants and could be enslaved. In 1802, a revision to registration law required all free blacks to register in their county of residence. Registration lists included not just names but also physical features and the way in which freedom was obtained. Lists of free blacks names were then placed upon the doors of the local county courthouses (Hudgins, Wolf: 120) Perhaps the most stringent and devastating law was the one enacted in 1806 that forced all newly freed blacks to leave the state within the year or risk re-enslavement unless they could successfully petition the government (Morris: 396-97). This law meant the primary way for free blacks to manumit relatives and remain living together was to leave the state. These new restrictions on the actions and movements of free blacks may have been a means for the government to coerce free blacks to leave the state.

Furthermore in the late 18th and early 19th century, free blacks lost more of their rights. In 1805 the government declared it illegal for free black orphans to be required to learn “reading, writing, or arithmetic” like white orphans (Wolf: 120). In the following year, the government declared that free blacks could no longer freely carry guns (ibid). In an 1806 court case, St. George Tucker placed the burden of proof on free blacks in cases involving questions of freedom.

According to the ruling since they were light skinned, all Native Americans were assumed to be free unless it could be proven otherwise; on the other hand all blacks were assumed to be enslaved unless they could prove otherwise (ibid: 149-151). This case marked the first point in which Native Americans and free blacks were entitled to massively different treatment and cemented the use of skin color as the main determinant of race. With this ruling, free and enslaved blacks were given the same racial identity and entitled to the same degree of protection under the law. Beginning in 1813, free blacks were required to pay a poll tax; if they could not pay this tax, they could be re-enslaved. These new laws placed the freedom of this group of people in a tenuous position (Berlin 1974: 97).

The documentary evidence indicates that in the Williamsburg area these new laws were fully enforced. York and Surry Counties were among the first places in Virginia to require free blacks to register their status (Heinegg, Hudgins). In some areas of Virginia, there is evidence that these new laws were largely ignored by government officials in. Some historians have estimated that by 1860 one third of the free black population in Virginia resided there illegally (Schwarz 1987: 322). A

comparison between the deeds of manumissions and the surviving free black registers from Charles City, Surry, and York Counties indicate that enslaved person manumitted after 1806 was forced to relocate (Heinegg, Hudgins, Index of Manumissions). The Charles City free black register even began noting that every free black in the county could trace the source of the freedom to prior to 1806 (Charles City County Register of Free Negroes and Mulattoes). Finally, personal property tax lists from James City County also demonstrate this forced removal. On the 1813 tax lists, numerous free blacks were noted as having just been manumitted. None of these individuals were listed on the 1814 tax list, indicating that they were forced to move. Petitions to remain in the state following manumission were frequently denied in these counties. In 1818, the New Kent court even denied the petition of a girl who had been freed in a will prior to 1806 but who had just reached the age of eighteen (The Digital Library on American Slavery).

The changes in racialization are also reflected in historical documents. By 1815, personal property tax lists for most of the area had a separate category for free blacks. New Kent County, which still lacked this category, put the initials FN for “free negro” or the letter M for mulatto next to all members of the free black population. By the early 19th century, marriage records from these counties also began to include the designation of “free negro” and “mulatto” next to the names of free blacks (Chappelear, Knorr). Their new racialization significantly impacted the identity of the free black community and the resistive means through which it was constructed. Free blacks continued their attempts to exert their agency to

increase their freedoms through the degree by which they integrated into the larger community and interacted with other social groups. However the manner of their challenges to the system took on new forms and significance. This transformation is reflected in the changing patterns of free blacks' ownership of personal property.

Personal Property Study

As discussed earlier, property ownership can be employed to navigate and divert racialization. The types and purpose of property owned can indicate how free blacks attempted to resist. It is therefore important to discern any changes in property ownership between these two periods in order to determine how the transformation in racialization impacted forms resistance. I analyzed personal property tax lists from the Williamsburg, Charles City County, James City County, New Kent County, Surry County, and York County to examine any changes,

Personal property taxes began as a way for the colonial Virginia government to tax the ownership of luxury items such as wheeled carriages and stud horses. However, the government soon levied taxes on commonly owned items such as horses and slaves. Finally, during the Revolutionary War, cattle became taxable as well because of its extremely extensive ownership. A 1782 revision of Virginia's tax code required all counties record their personal property tax lists each year and to submit a copy of these lists to the state government (Leigh et al. 1819: 26-29).

These tax lists are extremely useful for a study of this period as all free black heads of households were required to pay a tithe on any male in their family above the age of sixteen (Morgan: 491). Due to this rule, free blacks to appear on the tax lists even when they did own any taxable personal property. When they refused to pay taxes as a form of protest, exemplified by Charles Hopson and his son in 1784, they still appeared on the tax lists although their refusal was

noted. These individuals were not included in my study. These tax lists can thus provide a good sense of the percentage of free blacks in the Williamsburg area who actually owned taxable personal property, to an extent which would not be available through the examination of wills and inventories.

Wills and inventories may have provided a better look at the overall monetary wealth of free blacks as well as the whole range of items which free blacks chose to purchase. Unfortunately the majority of inventories and wills from the Williamsburg area from both periods were burned during the Civil War (Hopkins 1931: 104). Wills and inventories, however, only provide a snapshot of what people owned when they died and thus would not reflect any changes in individual property ownership over time. Since personal property tax lists were recorded every year, they can illustrate fluctuations in property ownership both in terms of how many free blacks owned taxable property and in the types of property which they owned. These fluctuations can be seen at both the community and individual levels. Thus the tax lists can reveal larger changes in patterns of free black property ownership which would not be seen in inventories. These changing patterns may reflect possible shifts in the identity of free black population around Williamsburg.

In order to discern major before and after patterns of change following the 1782 revision, I ran statistical analysis using the Statistical Package for the Social Science (SPSS) on data from 1784 and 1815. I was forced to use the 1784 data as it was the closest date to 1782 for which I had data from all six counties. However in the Williamsburg area, unlike other areas in Virginia, the free black

population was slow to grow after the manumission revision. It was not until 1787 that the population began to increase considerably. Given this fact, I felt fairly comfortable using the data from 1784 as I do not believe the free black population would have yet been considerably impacted. I used the data from 1815 as it was over 30 years after the revision and therefore reflects the change in the free black population both through deeds of manumission and natural means. Moreover, 1815 was the first year since 1787 in which cattle were taxed. This data thus provides a more direct comparison than data from either 1812 or 1814 and allows for a discussion of the change in cattle ownership.

I examined a variety of patterns in this study. I began by looking at the percentage of free blacks around Williamsburg who owned taxable property in 1784 and the percentage who owned taxable property in 1815. Within this group of propertied free blacks, I studied changes in the mean total amount of personal property, livestock, and slaves which they owned. I also focused on changes in the percentage of livestock and slaves which they owned. To reiterate, slave ownership as reflected on personal property tax lists could illustrate the employment of slave labor but could also demonstrate the purchase of friends and relatives for the purpose of manumission. In order to determine the purpose of slave ownership, I looked at personal property tax lists from other years and turned to wills and inventories when available. I also used a variety of statistical tests to determine if any of the changes in free black property ownership were statically significant.

Analysis of the data reveals that in 1784, 80% of free black heads of households owned personal property. All propertied free blacks owned livestock, 90% owned cattle and 75% owned horses. This importance of livestock is also borne out in an examination of the few free black inventories and wills from this period. All eight of the inventories from York County which conclusively belonged free black individuals list livestock. Most of these inventories list horses and hogs and they all include cattle.

Less than 14% of free black property owners were slaveholders. Of these 14%, the majority owned multiple slaves. An examination of personal property tax records indicates that the few slave-holding blacks tended to own slaves for multiple years. The fact that manumission was possible at this time seems to indicate that free blacks were employing slave labor.

Documentary evidence supports this assumption. Two members of the Gillett family, Simon and Peter, were listed as slave owners in 1784. The Gillett family was known to have used enslaved labor (Heinegg). Moreover, Simon and Peter continued to be listed as slave owners for the next eleven years. In 1784, Edward Berry was listed as owning five slaves: Peter, Dinah, Joe, Lucy, and Dinah. His 1795 estate inventory lists Peter, Dinah, and Lucy as well as another "negro girl," Franky (York County Probate Inventories). Charles City County deeds indicate that Abraham Brown purchased slave Phillis and Sarah in 1770 for 60 pounds each (Weisigier: 18). In 1784, he owned slaves Silvey and Issac. In 1785, he also owned a slave named Jane. In his 1789 will, he gave Issac and Jane to his daughter Mary and gave Silvey to his wife (Dance: 148). Mary still owned these

slaves in 1791 when her new husband, Abram Cumbo, recognized her right to keep them as her property (Index of Manumissions). The fact that these free blacks continued to own enslaved individuals for such a long period after the 1782 manumission revision also supports the assumption that these free blacks utilized enslaved labor.

Free blacks employed slave labor in earlier years as well. In his 1727 will, recorded in Charles City County, Gibby Gibson gave enslaved people to his wife, children, and son-in-law (Weisiger 1984). In his 1780 York County will, John Rawlinson ordered that his entire estate, including his slaves, be sold and the money divided amongst his family (Wright 2005). Lydia Cooper, also of York County, owned two enslaved men. She rented one of them, Mann, out to various people including the governor (Enslaving Virginia: 613). John Insko gave an enslaved woman to his mother Joanna in lieu of paying for Joanna's care (Brewer 2005A).

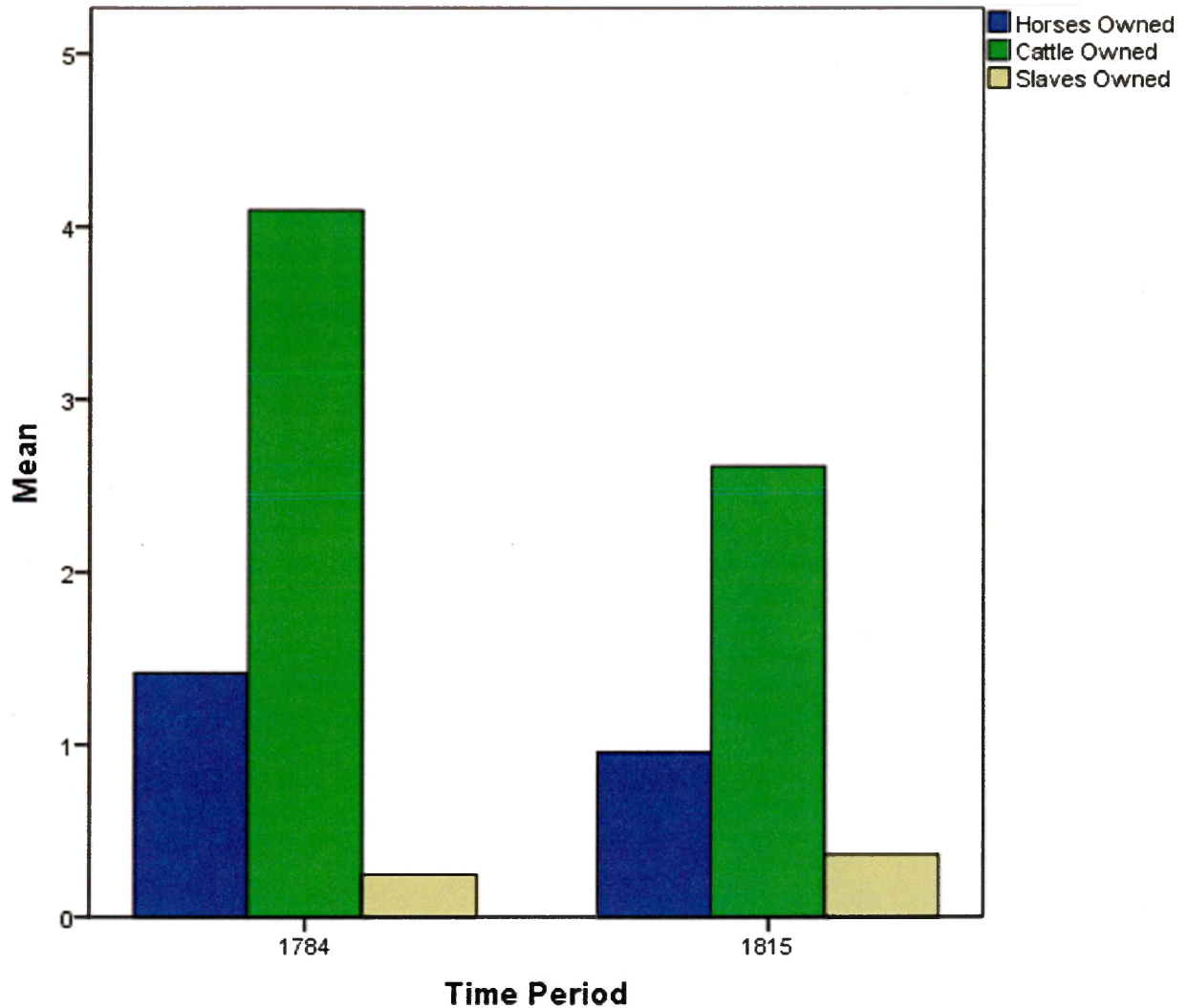


Figure 3: Mean ownership of different forms of personal property by free blacks in 1784 and 1815.

By 1815, there were major changes in the amount and type of taxable property owned by free blacks. The number of propertied free blacks decreased 15%. An independent samples t-test demonstrated a statistically significant decrease in the total taxable property owned by property holding free blacks from 1784 to 1815 ($t= 2.283, p=.012, df=159$). An independent samples t-test also a statistically significant decrease in the total taxable livestock owned by propertied free blacks ($t= 2.132, p=.018, df=151$). Curiously the average number of slaves

owned by propertied free blacks appears to have increased. A closer examination of the data reveals that this apparent rise was in fact due to a change in the number of propertied free blacks who owned slaves, not in the number of slaves which they owned. A Mann Whitney-U reveals that among slave-holding free blacks, the number of slaves owned decreased significantly ($Z = -2.342, p = .019, n = 41$). In fact by 1815, 83% of all slave-holding free blacks only owned one slave.

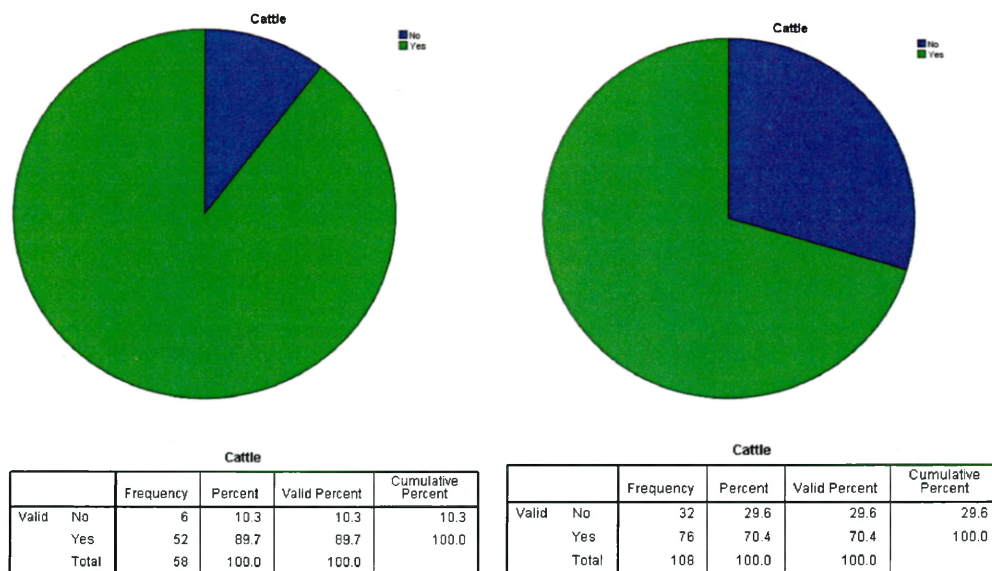


Figure 4: Percentage of free black personal property holders who owned cattle in 1784 (left) and 1815 (right)

At the same time, changes in the types of personal property which free blacks owned illustrate the effect of racialization on their identity. By 1815, the percentage of propertied free blacks who owned livestock and the number who owned horses both decreased by 10%. The percentage who owned cattle significantly decreased by 20% ($\chi^2 = 7.591, p = .005, df = 1, n = 166$). However the

percentage who owned slaves more than doubled, increasing significantly by nearly 17% ($\chi = 22.815$, $p < .001$, $df = 1$, $n = 168$). During a time in which the economic opportunities available to free blacks around Williamsburg were declining and many were turning to farming as a livelihood, the number who owned livestock, especially cattle, significantly declined.

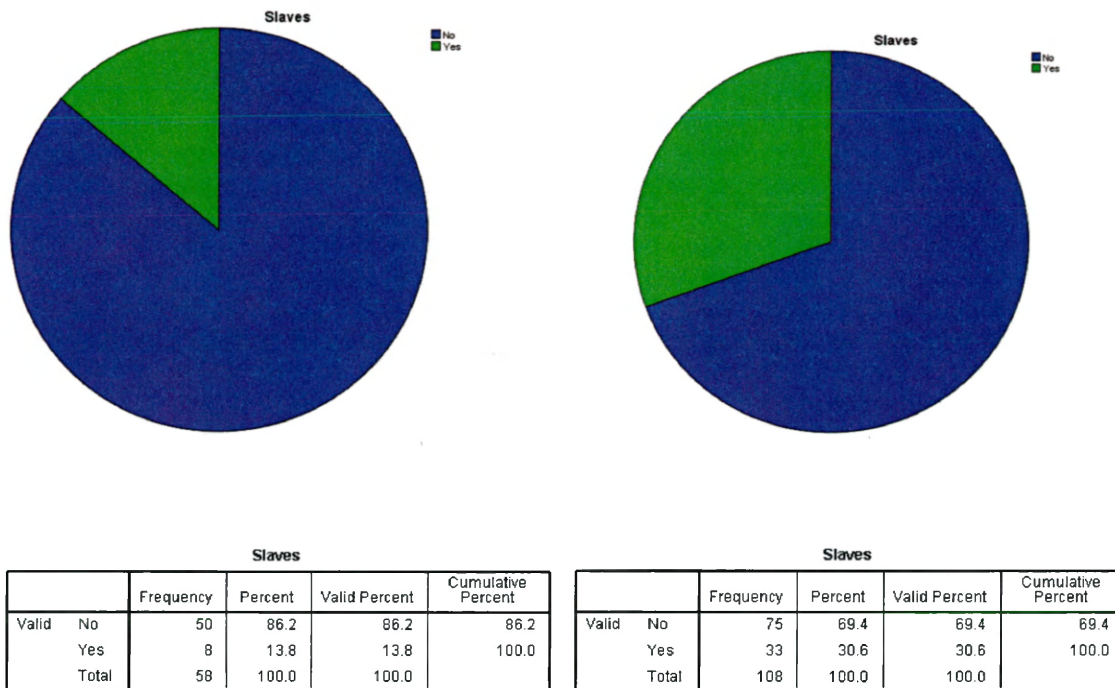


Figure 5: Percentage of free black personal property holders who owned slaves in 1784 (left) and 1815 (right)

Despite this decline, deeds and wills show that livestock was still important. Anthony Roberts of York County willed cattle to two of his grandchildren in 1805 and in 1811 James Canaday of James City County made a deed of gift of a cow and two calves to his grandson Turner Cumbo of Charles City County (Index of Manumissions). While the ownership of livestock was still important, slave

property held a greater meaning. The question is for what purpose were free blacks purchasing enslaved people?

Some scholars point out that during the 19th Century, there were still free blacks in Virginia who relied on slave labor (Lane and Freeman 1992, Schweninger 1990, Schwarz 1987). Some of these were middling farmers who needed laborers and were unable to find free blacks whom they could employ. These farmers did not have the financial assets to free their enslaved individuals and pay them a wage (Schwarz 1987: 325). It is possible that some members of Williamsburg's community owned enslaved individuals for this purpose.

Other, wealthy free black slave owners were more fully entrenched in the slave system, exploiting slave labor as a means to achieve success in a slave society. These men and women owned slaves purely for commercial purposes. They often lent their enslaved individuals to other people, sold enslaved individuals to settle debts and bequeathed enslaved individuals to family members (Lane and Freeman: 494). For these free blacks, ownership of enslaved people was a way to socially set themselves apart from enslaved people, gain the trust of white neighbors, and display their financial success. This type of ownership of enslaved individuals by free blacks was present in Williamsburg's free black community during the first period of this study. However documentary evidence this type of ownership began to fade during the second period. In 1799, Simon Gillett emancipated a slave named Kitty. In the early 1800s, Elizabeth Brown, daughter of the earlier discussed Abraham Brown, emancipated the slave Sal which her father willed to her. In later years, Elizabeth

and Sal were listed as the co-owners of a large tract of land in Charles City County (Dance: 8).

Furthermore surviving deeds indicate that in the late 1790s and early 19th century, free blacks around Williamsburg primarily purchased family and friends in order to manumit them. In Surry County, Fanny James purchased and freed Tony in 1801 and Peter Fagan freed a family member in 1802. In Charles City County, Michael Smith emancipated his father in 1803 and Jesse Willis purchased his wife and freed her in 1820 (Index of Manumissions).

However, following the 1806 law, free blacks were faced with a very difficult choice. If they manumitted family members who could not successfully petition the government to remain in the state, the family would be split up. It is possible that free blacks dealt with this dilemma by keeping relatives as slaves until they could successfully petition the government. Again the documentary record supports this assumption. The 1815 personal property tax list for Charles City County indicates that Major Cole owned one slave. In his will five years later, Cole left his slave Elizabeth, who he called his wife, to his brother and brother-in-law (Index of Manumissions). In her 1813 petition to remain in Virginia, Jenny Parker of Surry claimed that one of her children had been emancipated years ago and currently owned her other two children. In 1815, Henry Carter of Charles City County, petitioned the government to allow his children and wife, who he currently owned, to remain in the state after manumission (The Digital Library on American Slavery). Finally oral history also indicates that many of the slaves

owned by other members of the Brown family in the early 19th century were friends and relatives who were purchased out of slavery (Dance: 9).

The tenuous position in which all members of the free black community in the Williamsburg area found themselves caused them to view their fate as connected to that of enslaved people. As a result of this connection, free blacks preferentially purchased slaves for the purpose of manumission, giving up the measure of independence and economic success which livestock afforded them. The fact that members of prominent free black families changed from using slave labor to purchasing individuals illustrates that this change went beyond any previously established connection between newly manumitted slaves and the slave community.

The purchase of enslaved individuals in the second period became a way for free blacks to use their agency to challenge white's claim to superiority that allowed the latter to subjugate free blacks and exploit enslaved blacks for labor. The community employed the institution of slavery in a way that was not intended by whites. Through this tactic free blacks were both able to take friends and family out of the system of slavery but remain in the state.

Moreover the decision to remain in the state and hold friends and family members as slaves was a way of advancing their right to this freedom in the state of Virginia. The results of this study reflect a much large pattern of the creation of an African-American identity and new modes, including muted

resistance, designed to increase agency and advance claims to the freedom of African-Americans.

Changes in Identity and Means of Challenging Racialization

As the personal property study suggests, the change in racialization had a significant impact on the identity of the free black community in the Williamsburg area. It led to changes in the negotiations of power between free blacks and whites as it increased the perceived differences between the two groups. The fear which permeated the white community severed many of the previously established connections between prominent free blacks and whites. The older members of the free blacks were thus more open to the restrictions placed on free blacks than they had been in the past. The shared struggle against these restrictions enabled them to forge a shared identity with the newly free blacks in the area.

The shared identity among the entire free black population was extremely important in enabling the newer members of the population to resist restrictions which some have argued were designed to take away their freedom. The Williamsburg area may have appeared attractive due to its inexpensive land; however the depressed economy entailed decreased job opportunities. This job market combined with the 1801 law which made it difficult for free blacks to move to obtain jobs could have led to the re-enslavement of many new members of the free black community. However members of these older families began to marry free blacks outside of these families. In 1792, for example, Susan Blizzard married Ben, a former slave and in 1809, Amy Johnson married Scipio, a former slave (Knorr: 7, 13).

These new marriage patterns brought new members of the free black community into these previously established kinship-based support networks, allowing them access to the financial means to pay their taxes, survive the poor economy, and maintain their freedom. Thus these marriage patterns both express the shared identity among the free black community and were a tactic designed to protect the freedom of free blacks.

Moreover the new, harsher restrictions placed on free blacks along with deteriorating economic conditions and the constant threat of (re)enslavement caused free blacks to view themselves as increasingly similar to enslaved blacks, engendering a connection between the two groups. As a result some members of these prominent free black families also began to marry enslaved individuals. The aforementioned Peter Fagan, who was a wealthy free black from Surry, considered Anna, the slave of Benjamin Drew who later emancipated her, to be his wife. Henry Debrix, of the prominent Debrix family of Surry County, who was born around 1782, considered Fanny, the slave of William Allen, to be his wife. Although he did not purchase her freedom, he left all of his property to her in his 1810 will (Index of Manumissions). Finally Lucy Brown, the great niece of Abraham Brown Sr. and the granddaughter of wealthy Dixon Brown, married an enslaved man (Hudgins: vii). This change in marriage patterns is particularly striking given the fact that the enslaved wives of free blacks were still considered tithable. The marriage of enslaved women therefore not only demonstrates a new African-American identity, but was also way of challenging the government's claim as to whom they could marry.

This connection did not necessarily have to form, even though many free blacks were formerly enslaved. In the 1780s, James Madison claimed that “a freedman immediately loses all attachment and sympathy with his former fellow slaves” (Morgan: 485). In 1805, while debating the removal law, John Minor noted that despite the fears of many politicians, free blacks had not allied with slaves nor did they seem to have any interest in engendering a race war (Wolf: 125). Moreover as Wolf has pointed out, “in most slave societies, it was the case that free blacks allied with the master class rather than with the slaves” (ibid).

Indeed there seems to be an attempt by some manumitters in the Williamsburg area to ally free blacks with whites by providing them with property and slaves, thus entrenching them in this economic system. Josiah Wilson of Surry County gave Linda, a free black girl, 150 acres and six slaves. John Benford and Richard Walker of Charles City County freed all of their slaves and bequeathed their estates to their former slaves (Index of Manumissions). Rather the new restrictions on free blacks and the threat of re-enslavement meant that both free and enslaved blacks were in a constant struggle to obtain and maintain freedom. This shared struggle gave rise to an African American identity which crosscut the difference in their status of free and enslaved.

The new forms of racialization and the shared African American identity which it engendered other new methods of negotiating, transforming and resisting restrictive laws in order to challenge the burdens placed on African-Americans in the Williamsburg area. While the economy of Williamsburg rapidly declined and the entire population struggled financially free blacks employed their new

racialization against itself as a means of obtaining a living. Free blacks primarily worked as farmers, either on their own land, land owned by friends or family, or land rented from local whites (Dance, McCartney). A few men found employment as blacksmiths, plasterers, carpenters and watermen. Women some women worked as seamstresses or laundresses. Other community members may have employed these individuals, but they also worked for members of the white community. These were positions which whites often deemed to be black work, and refused to take up even during times of economic hardship. Free blacks used this racial prejudice as an opportunity to gain employment and survive economically.

Moreover, instead of allowing themselves to be coerced into leaving the state, many free blacks moved from living and working near towns to living on the margins. This movement gave rise to rural, segregated free black communities. These communities enabled their residents to distance themselves physically, socially and economically from whites. (Morgan: 485).

These sites formed in the different types of locations. Some communities formed on tracts of land owned by wealthy free blacks. The Centerville community on the Hot Water Tract in James City County, for example, was formed by newly manumitted slaves from land willed to them by their former masters (McCartney 2000). Other communities, such as those along Queen's Creek in York County, arose in areas in which enslaved people had frequently been suspected of hiding out (Nicholls 1990: 130).

Finally a few free black communities were formed on large tracts of lands purchased by wealthy, free black individuals. The Ware Creek settlement on the border of James City and New Kent Counties was founded on land purchased by John Ashlock (McCartney: 16) Another major community, Ruthville in Charles City County was formed in the early 1800's by Abraham Brown Jr. on land which he had inherited from his father, aforementioned Abraham Brown, combined with land he had purchased (Dance: 10-12).

All three types of sites were eventually occupied by a mixture of older free black families, newly freed blacks, and occasionally enslaved blacks and thus both demonstrated and helped construct this new shared African American identity (Dance, McCartney, Nicholls 1990). It is possible that within in the community, all members may not have been treated equally. Members of the older free black family may have looked down on only newly freed and enslaved blacks. There is a bit of oral history from the Brown family which indicates that free blacks in Ruthville would physically separate themselves from enslaved blacks in community buildings (Dance: 14). However, given the overall lack of evidence indicating a disparity in treatment, the community appears to have attempted to keep any differential treatment private, within the community and away from the eyes of the larger free public.

Finally whites frequently accused free blacks of using these remote locations to help enslaved blacks escape. While there is little documentary evidence to support these claims, oral history from the Brown family indicates that the residents of Ruthville helped escaped slaves (Dance: 7, History of Elam Baptist

Church: 17). Free blacks created a society which afforded them greater personal liberty enabling them to contest a social structure and racial order which denied African Americans equality to whites and viewed them as increasingly inferior and deserving of less freedom.

Through their deliberate segregation, free blacks created their own society and challenged attempts to deny African Americans freedom and equality. They created a place over which they had power. These locations provided an area where free blacks could hold their family and friends as slaves yet treat them as equals. They allowed free blacks increased agency and enabled them to put forth their own claim to control over their own movement and actions and challenge the controls placed on them by laws.

A cornerstone of this new society was the formation of two predominantly African American churches in the Williamsburg area. Both of these Churches were under the control of the Dover Baptist Association, which regulated them and made sure they followed certain guidelines. Moreover, all members of the Baptist faith were expected to follow specific religious and behavioral guidelines (Isaac 1974: 361-362). Through these churches, the community insinuated into the religious system and yet used it for their own means and to their own advantage, as a forum to signal and validate their own religious point of views.

The first of these churches, the Williamsburg First Baptist Church, began in the 1770's from illicit meetings along Ware Creek, where enslaved preachers Moses and later Gowan Pamphlet conducted services for enslaved individuals

(Rowe 2012: 14). By 1800, Gowan Pamphlet had been manumitted and the church had expanded to include free blacks from the Williamsburg, James City, York, and New Kent Counties (Enslaving Virginia: 625-626). The congregation was under tight control by local whites. In 1805 Resident James Semple even requested arms from the state in order to control the number of “free negroes and mulattoes as well as slaves” who appeared in Williamsburg to attend the services at the Baptist Church (Nicholls 1990: 102). Nevertheless, the congregation, led by free black preachers until 1831, employed the church as means of advancing spiritual autonomy.

The second church, Elam Baptist Church was established in Ruthville in 1813 by Abraham Brown Jr. (Dance: 11-14, History of Elam Baptist Church). On paper the church employed a white preacher, Reverend Clopton. His presence, which was required of them by the Dover Baptist Association, enabled the congregation to circumvent the 1805 law which prevented enslaved blacks from holding meetings when whites were not present (Dance: 13). However, church records and oral history indicate that he was just a figure head who rarely conducted services (Dance: 13). In actuality, Abraham Brown Jr. or one of his sons regularly conducted the services. The congregation turned the obligatory white minister into a tactic to subvert the controls placed on them by the government.

Furthermore, the church contained multiple doors, which were used for different social groups. The Brown family claim that black men used the first, black women the second, and the fourth was reserved for all white visitors (Dance: 14). This layout harkened back to that of many white churches, which forced

both free and enslaved blacks to enter from a separate door than whites, using a common practice in a way which was not intended by whites (Lounsbury 2011). Through the reversal of this layout, Elam's congregation challenged its place in the racial order by displaying its power over white visitors.

These two churches gave free blacks autonomy, control, and agency over their religious life and enabled them to put forth their own claims to the interpretation of the bible and the Jesus' word. They also provided a location for free blacks not only to mingle with enslaved blacks, but to also aid enslaved blacks in their endeavor for freedom (History of Elam Baptist Church: 17). Through these churches, free blacks advanced claims to both the spiritual and literal freedom of African Americans. Moreover, Elam Baptist Church located in the newly formed free black community of Ruthville on land initially owned by Abraham Brown, encapsulates the major changes in the identity and resistance of free blacks over these two periods. Brown was a slave owner who integrated into the larger community and was on very friendly terms with prominent Charles City whites. His son enabled African Americans, both free and enslaved, to distance themselves physically, socially, economically, and even religiously from whites and thus lay claim to various privileges of freedom.

Thus through numerous tactics, free blacks created a society which afforded them greater personal liberty enabling them to contest a social structure and racial order which denied African Americans equality to whites and viewed them as increasingly inferior and deserving of less freedom. The decision to remain in the state was a way of advancing their right to this freedom in the state of

Virginia. Even in simply refusing to move, free blacks resisted the attempt of the Williamsburg area to get rid of its free black population. As the category of a “free black” shifted in meaning and the racial structure changed, free and enslaved blacks formed a new, group identity and found different means of negotiating their place in the racial order.

Conclusion

During both periods free blacks were faced with laws which limited their freedom and placed on them great burdens. Through the struggles engendered by these restrictions, free blacks in the Williamsburg area formed a group identity. They used social agency to negotiate and even challenge their place in the racial order. This agency was exerted through the degree to which they integrated into the larger community, their choice and purpose of property purchases, the degree to which they associated with enslaved individuals, and even forms of muted resistance. However the events following the 1782 manumission revision significantly impacted the identity of the free black community and the exact methods through which they challenged the social structure and racial order.

From 1723-1786, free blacks in the Williamsburg area occupied a very specific location in the racial order, racialized differently than both whites and enslaved blacks. The 1723 manumission law helped to crystalize this structure by preventing enslaved individuals from gaining their freedom. As a result of this distinct treatment, free and enslaved blacks formed separate identities. In this period, free blacks used their acceptance in the larger Williamsburg community in order to oppose their racialization which denied them equality to whites despite a shared status of free. They integrated physically, socially and economically, establishing themselves as members of the larger freeborn community and forming connections with various whites. Their treatment and ability to integrate in the larger community encouraged and enabled free blacks to use the legal system to advance claims to property, safety, and equality. These means of

gaining and employing agency, designed to further their own personal freedom, helped free blacks to construct an identity separate from enslaved blacks.

The impact of the manumission revision began to hit Williamsburg in 1787. Manumissions coupled with cheap land that attracted many recently manumitted slaves significantly increased the size of the free black community. For many whites, the revision to Virginia's manumission law threatened the racial order by allowing people to move from one location in the racial hierarchy to another, from enslaved to free black, through two separate means: manumission and passing. Such a movement meant that the seemingly rigid racial categories were openly mutable. The destabilization of the structure led to fear of a slave rebellion which was only increased with rebellion in Saint Domingue and Gabriel's conspiracy in Richmond.

As elites believed the free blacks would be the source of rebellion, they attempted to stabilize the racial order by racializing free and enslaved blacks in the same way, taking away many of the rights of free blacks. This new racialization may have been designed to prevent the envy of enslaved blacks and rid Virginia of its free black population. New laws were enacted which attempted to control the actions, movement, employment and even freedom of free blacks. These laws were fully carried out in the Williamsburg area. Moreover the change in terminology which whites in the area used to describe free blacks also demonstrates this change in racialization.

This new repression caused free blacks around Williamsburg to form a shared African American identity with enslaved blacks based on a similar struggle to gain and retain their freedom. The free black community turned to new methods to lay claims to the freedom of African Americans. Some members of older free black families married enslaved individuals, laying claim to their freedom to marry whom they chose and others married newly freed blacks. These marriages brought new members into the longstanding support networks and enabled them to pay taxes and avoid re-enslavement during a time of economic hardship. They diverted their funds into purchasing people out of slavery. Following the 1806 relocation law, many free blacks chose to remain in the state while continuing to hold their friends and relatives as slaves, further advancing both groups claims to freedom while remaining in the state. Finally free blacks physically segregated themselves and created geographically separate communities. These communities enabled them to further separate themselves socially, economically, and religiously from whites, increase their personal freedoms, and aid enslaved blacks in their endeavor to obtain freedom.

Ultimately the white community's fear turned into a self-fulfilling prophecy. The new racialization of free blacks in the Williamsburg area, designed to prevent a slave rebellion, caused them to ally with enslaved blacks and form a shared identity. This new identity caused free blacks to resist the place of African Americans in the racial order and the treatment which their racialization entailed, including the system of slavery. However this resistance was accomplished not

through a rebellion designed to overthrow the social system but rather forms of muted resistance designed to outwardly conform to the system.

Appendix: Timeline of Events and Laws

1699: The capital of Virginia moves to Williamsburg

1705: Virginia passes its first set of comprehensive slave laws. The legislature also declares that the free black children of indentured servants must serve as indentured-apprentices until the age of 31

1723: Virginia passes a comprehensive set of laws regarding “free negroes, mulattoes, and Indians.” This group is stripped of its rights as citizens and manumission is severely restricted

1723: Virginia declares free black women and wives of free black men to be tithable

1765: Parliament imposes the Stamp Act. In Williamsburg, Patrick Henry introduces the Stamp Act Resolves

1766: Parliament repeals the Stamp Act

1767: Parliament imposes the Townsend Duties

1769: Free blacks successfully petition the government to overturn the law taxing free black women. The government declares the law “derogatory to the rights of freeborn subjects.”

1775: The beginning of the Revolutionary War

1780: The capital of Virginia moves to Richmond

1782: Virginia enables manumission through deeds and will

1783: The end of the Revolutionary War

1791: The beginning of the rebellion in Saint Domingue

1792: Virginia bans free blacks from entering the state

1793: Virginia declares that all enslaved individuals wishing to gain employment must register in their county

1800: Gabriel’s attempted rebellion in Richmond

1801: Virginia passes a law requiring all free blacks wishing to move to other counties to demonstrate means of employment. Those who move to a new county before securing employment can be enslaved

1802: The Virginia legislature declares that all free blacks in the state must register at the local county courthouse. These registration lists were placed on the courthouse doors

1805: Virginia declares it illegal for free black apprenticeship agreements to include a requirement for teaching reading, writing, and arithmetic. The state also bans meetings between free and enslaved blacks without the presences of white person.

1806: In *Hudgins vs. Wright*, St. George Tucker places the burden of proof of freedom on free blacks

1806: Virginia declares that all enslaved individuals freed after May 1806, unless they can successfully petition government to remain, must leave the state within a year after being manumitted or risk re-enslavement

1813: Virginia imposes a poll tax on free blacks

1813: Elam Baptist Church is founded in Charles City County

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