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EMANCIPATORS, PROTECTORS, AND ANOMALIES

Free Black Slaveowners in Virginia

by PHILIP J. SCHWARZ*

ARCHIBALD BATTE was apparently a successful Virginian. Owning property in Chesterfield and Prince George Counties, he was able to provide a good living for Nancy Jenkins Batte, his wife, Eliza Ann Gilliam, his daughter, and Henry S. Batte, his son. One key to his success was his grocery store in Bermuda Hundred; another was the land he farmed in nearby Prince George. Like so many Virginians, Batte relied on slaves to perform much of the labor he needed. When he died early in 1830, this prosperous grocer left a moderate estate to his wife, son, and daughter. In some respects he appears to have been typical of the many other Virginia slaveowners who owned a modest number of bondsmen, but in one regard this independent man was distinctly different—he was an Afro-American.¹

There had certainly been free black Virginians who owned slaves before Batte, and others would do so after him. Their enterprise and property have convinced some observers that opportunity did exist for free “people of color” to prosper and not just to survive in the Old Dominion. Their possession of fellow Afro-Americans as human chattel, however, has persuaded others to accuse them of being no better than white slaveowners. In fact, the existence of free Negro slaveowners only made more clear the conditions of life in a society dominated by slaveholders

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¹ Chesterfield County Land and Personal Property Taxes, Virginia State Library, Richmond (the location of all public documents cited herein, unless otherwise indicated; hereafter cited as Vi); “A List of Free Negroes with their Taxable Property, Their Place of Residence and Occupations,” Chesterfield County Personal Property Taxes, Lower District, 1818; Prince George County Land and Personal Property Taxes; Chesterfield County Deeds, 1817–19, p. 546, 1839–41, pp. 172, 194–95, 1846–48, pp. 60, 597–98; Chesterfield County Court Order Book, 1822–24, p. 6; Chesterfield County Wills, 1826–30, p. 614, 1830–34, pp. 104, 180–81, 48–79; Chesterfield County Marriage Register, 1771–1853, p. 128; Chesterfield County Marriage Bonds, 1813–18, microfilm frames 276–79; U.S. census schedules for 1810, Prince George County; Luther P. Jackson, *Free Negro Labor and Property Holding in Virginia, 1830–1860*, American Historical Association (New York and London, 1942), pp. 205, 208, 215, 224; Carter G. Woodson, *Free Negro Heads of Families in the United States in 1830 . . .* (Washington, D.C., 1924), pp. 34, 41. An archaeological team from Virginia Commonwealth University has recently excavated the site of Batte’s store.



Courtesy of L. Daniel Mouer



Courtesy of L. Daniel Mouer

A team from the archaeology department at Virginia Commonwealth University under the direction of L. Daniel Mouer recently excavated the site of Archibald Batte's store in Bermuda Hundred. The house in the background, known today as the Bishop-Johnson House, originally belonged to Batte but was expanded in the mid-nineteenth century.

and dependent on slave labor. Later recognized as "slaves without masters" who were "neither slave nor free," free Negroes lived perilously close to what sociologist Orlando Patterson has called "social death." Their ownership of slaves consequently was exceptional and anomalous, allowed only at the sufferance of white slaveowners and mostly intended to reduce the risks of living free and black in a slave society. In the 1830s, probably the peak of such ownership, no more than one thousand of the more than fifty-five thousand free Negroes in the Old Dominion held human property for any reason. Although the number of free black Virginians would grow to more than fifty-eight thousand by 1860, the number of those who were slaveowners dramatically declined after 1830.²

"Good history reminds us . . . that blacks as well as whites held slaves in the antebellum South," declared Carl N. Degler in his 1980 presidential address to the Organization of American Historians. It is to their credit, therefore, that black historians between 1913 and the 1940s pioneered the study of Afro-American slaveholders. The work of Carter G. Woodson, Luther P. Jackson, John H. Russell, James H. Johnston, and other scholars was comprehensive and illuminating. These historians were bold in their decision to focus on black Americans as worthy objects of study instead of imitating the work of such contemporary white historians as U. B. Phillips, who concentrated on slaveholders to the exclusion of blacks, whom, in the apt words of a recent Phillips biographer, he did not take seriously "as persons having emotions, needs, and capacities parallel with those of their white associates." For Woodson and his colleagues, it was a victory to demonstrate that blacks had owned all of the kinds of property, including bondspersons, that whites ever owned. These black historians made no concession to slaveholding, however. They were careful to point out that most free black slaveholding

² Ira Berlin, *Slaves Without Masters: The Free Negro in the Antebellum South* (New York, 1974); David W. Cohen and Jack P. Greene, eds., *Neither Slave Nor Free: The Freedmen of African Descent in the Slave Societies of the New World* (Baltimore, 1972); Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge, Mass., 1982); Woodson, *Free Negro Owners of Slaves*; Jackson, *Free Negro Labor and Property*, pp. 200–229; John H. Russell, *The Free Negro in Virginia, 1619–1865*, Johns Hopkins University Studies in Historical and Political Science, ser. XXXI, no. 3 (Baltimore, 1913); Writers' Program in Virginia, *The Negro in Virginia* (New York, 1940), pp. 122–23; Chesterfield, Fairfax, Princess Anne, and Spotsylvania Counties Personal Property Taxes, 1790, 1800, 1810, 1820, and 1830; Hanover and Northampton Counties Personal Property Taxes, 1830 and 1860; Fredericksburg Personal Property Taxes, 1790, 1800, 1810, 1820, and 1830; Petersburg Personal Property Taxes, 1795, 1800, 1810, 1820, and 1830; Richmond Personal Property Taxes, 1791, 1801, 1811, 1821, and 1830. (Decennial years could not always be used because of gaps in records.) Using these records, it can be determined that more free black Virginians owned chattel in 1810, 1820, and 1830 than in any preceding decennial year—that is, 1790 and 1800. The new law of 1832 guaranteed a decline in ownership thereafter.

was fraternal and protective and that ownership for profit of Afro-Americans by other Afro-Americans was not widespread.³

After 1942, the year in which Luther P. Jackson published his detailed study of free blacks who owned property in Virginia, a revolution in the historiography of Afro-Americans was in full swing. It reached its high point in the 1960s and 1970s and is still influencing American attitudes toward the black struggle for freedom. The new studies have made it appropriate to take another look at the question of free black slaveownership in the Old Dominion. Keenly aware of the oppressive and racist assumptions, practices, and laws that perpetuated human bondage in the southern colonies and states, recent historians have attempted to analyze both black resistance and white domination. The experience of free black slaveowners in the Old Dominion illustrates well the theme of black attempts at self-definition and survival within a hostile, restrictive environment. Afro-Virginians did exercise several types of ownership of slaves, but they did so under political and legal limitations that white leaders imposed on them with increasing severity over time.

The case of "Pharoah Sheppard, FN" (Free Negro), who received a deed for a bondsman in December 1810, exemplifies both the behavior of blacks on their own behalf and the degree of domination exercised by whites. In accepting ownership of a fellow Afro-Virginian, Sheppard, a Henrico County farm worker and overseer, provided for his future at the same time that he acknowledged the power of slaveholders to determine his fate and that of his son. For it was his son, also named Pharoah, whom he owned and soon freed, but only through a chain of circumstances that marked Pharoah Sheppard the father as exceptional. He had gained his freedom by state action as a reward for informing authorities of the slave Gabriel's plot to seek freedom through rebellion in 1800. Mosby Sheppard, then Pharoah's owner, had received compensation from the commonwealth and had later bought the younger Pharoah from an

³ Carl N. Degler, "Remaking American History," *Journal of American History*, LXVII (1980-81), 20. See notes 1 and 2 for Woodson, Jackson, and Russell. See also Carter G. Woodson, "Free Negro Owners of Slaves in the United States in 1830," *Journal of Negro History*, IX (1924), 41-43. On early twentieth-century black historians, see August Meier and Elliott Rudwick, *Black History and the Historical Profession, 1915-1980* (Urbana and Chicago, 1986), pp. 1-159, and Earl E. Thorpe, *The Black Historians: A Critique* (New York, 1971), especially pp. 108-11 on Woodson and pp. 177-78 on Jackson. See also James Hugo Johnston, *Race Relations in Virginia and Miscegenation in the South, 1776-1860* (Amherst, Mass., 1970). For reviews of much of the "new history" of early Afro-Americans, see Peter H. Wood, "I Did the Best I Could for My Day": The Study of Early Black History during the Second Reconstruction, 1960 to 1976," *William and Mary Quarterly*, 3d ser., XXXV (1978), 185-225, and William L. Van Deburg, *Slavery and Race in American Popular Culture* (Madison, Wis., 1984).

Albemarle County man in order to give him to the elder Pharoah. Pharoah escaped slavery by helping to prevent a slave revolt; he supported himself while free by serving as an overseer of slaves; and he gained his son's freedom only by acknowledging his bondage.⁴

Free black slaveownership was less complicated when it began in the 1650s, but when it threatened to grow, legislators took quick action to limit it. More famous than either Archibald Batte or Pharoah Sheppard was Anthony Johnson of the Eastern Shore, one of the earliest Afro-Americans to own any kind of bondsman in Virginia. Indeed, in 1655 Johnson successfully petitioned for judicial reversal of a court-ordered emancipation of his servant one year earlier. But Johnson would be one of the last of his people in Virginia's next century to "have and hold" another human being in servitude. The House of Burgesses prohibited ownership of any white, Christian European-American by blacks or Native Americans after 1670 and then sharply curtailed the opportunity for bondspeople to be emancipated after 1720.⁵ The number of free Negro slaveholders would start to rise again only after legislation in 1782 allowed emancipation by deed or will rather than by action of the state assembly, which had proven to be rare. From 1782 to 1806, most ownership of blacks by blacks was temporary, having as its object the manumission of that "species of property."⁶

Legal and political conditions changed dramatically by 1806, however, making it necessary for many free blacks to hold slaves to assure their own continued residence in Virginia. Alarmed by the increasing presence of unenslaved, and therefore harder-to-control, Afro-Americans in the Old Dominion, legislators decided that future beneficiaries of emancipa-

⁴ Mosby Sheppard Small Account Book, 1802, Mosby Sheppard Account Book, 1794–1812, pp. 52, 60, 70, Financial Records of Pharoah Sheppard, 1804–8, Box B, Meadow Farm Museum, Henrico Co., Va.; Petition of Pharoah Sheppard, 14 Dec. 1810, Richmond Legislative Petitions, 1810–12; Gerald W. Mullin, *Flight and Rebellion: Slave Resistance in Eighteenth-Century Virginia* (New York, 1972), pp. 152–53; Virginius Dabney, *Richmond: The Story of a City* (Garden City, N.Y., 1976), p. 55; Jackson, *Free Negro Labor and Property*, pp. 203–4. In *Slavery and Social Death*, pp. 209–19, Orlando Patterson discusses the "debt" emancipators believed freedmen owed to them.

⁵ T. H. Breen and Stephen Innes, "Myne Owne Ground": *Race and Freedom on Virginia's Eastern Shore, 1640–1676* (New York and Oxford, 1980); Douglas Joseph Deal, "Race and Class in Colonial Virginia: Indians, Englishmen, and Africans on the Eastern Shore During the Seventeenth Century" (Ph.D. diss., University of Rochester, 1981); Michael L. Nicholls, "Passing Through This Troublesome World: Free Blacks in the Early Southside," *Virginia Magazine of History and Biography*, XCII (1984), 50–70; William Waller Hening, ed., *Statutes at Large; Being a Collection of All the Laws of Virginia* . . . (13 vols.; Richmond, 1809–23), II, 280–81, IV, 132; Russell, *Free Negroes of Virginia*, pp. 42–59.

⁶ Hening, ed., *Statutes*, XI, 39–40; Russell, *Free Negroes of Virginia*, pp. 42–59; Peter Joseph Albert, "The Protean Institution: The Geography, Economy, and Ideology of Slavery in Post-Revolutionary Virginia" (Ph.D. diss., University of Maryland, 1976), pp. 278–79; Suzanne Lebsock, *The Free Women of Petersburg: Status and Culture in a Southern Town, 1784–1860* (New York and London, 1984), p. 96.

tion would have to leave the commonwealth within twelve months of their change of status or else be reenslaved and sold for the benefit of the poor. Inconsistent enforcement of this provision only underlined the vulnerability of former slaves even as it spared some of them from expulsion or being returned to bondage. Nor were legislators satisfied with subsequent laws that allowed emancipated people to petition the legislature or their county's or city's court for permission to remain. The possibility that the presence of numerous free blacks had encouraged, and that specific free blacks had supported, Nat Turner's Rebellion convinced the assembly to reduce the control free blacks had over slaves. After 1832, Negroes could acquire no more slaves, except spouses, children, or those gained "by descent." The Code of 1849 added parents to these exceptions, but in 1858, acting in an atmosphere of sectional crisis and perhaps emboldened by the United States Supreme Court's pronouncement against black citizenship in *Dred Scott v. Sandford* (1857), the legislature took away what little security free blacks might hope to give to relatives in the future. Thereafter, Afro-Virginians could no longer buy family members.⁷

From the 1780s to 1865, black slaveowners were a distinct minority within the small percentage of Virginia's free population that was of African descent. Using the 1830 census, Woodson concluded that only 1.7 percent (958 of 55,307) of the free black population of Virginia possessed any slaves at that time. (Indeed, other scholars have since persuasively argued that Woodson's total was an overcount.) Increasingly restrictive legislation, stringent economic conditions, the choice of many

⁷ Samuel Shepherd, ed., *Statutes at Large of Virginia, from October Session 1792, to December Session 1806, Inclusive* . . . (3 vols.; Richmond, 1835-36), III, 251-53; Winthrop D. Jordan, *White Over Black: American Attitudes Towards the Negro, 1550-1812* (Chapel Hill, 1968), pp. 565-69; Johnston, *Race Relations in Virginia*, pp. 42-71; Theodore Stoddard Babcock, "Manumission in Virginia, 1782-1806" (M.A. thesis, University of Virginia, 1974); David St. Clair Lowman, "Unwanted Residents: The Plight of the Emancipated Slave in Virginia, 1806-1835" (M.A. thesis, College of William and Mary, 1977); Richard S. Dunn, "Black Society in the Chesapeake, 1776-1810," in Ira Berlin and Ronald Hoffman, eds., *Slavery and Freedom in the Age of the American Revolution, Perspectives on the American Revolution* (Charlottesville, 1983), pp. 49-82; Berlin, *Slaves Without Masters*, pp. 146-48, 351-56, 360-80; June Purcell Guild, *Black Laws of Virginia* . . . (Richmond, 1936), pp. 96-118; Stephen B. Oates, *The Fires of Jubilee: Nat Turner's Fierce Rebellion* (New York, Evanston, and San Francisco, 1975), pp. 147-61; Henry Irving Tragle, comp., *The Southampton Slave Revolt of 1831: A Compilation of Source Material* (Amherst, Mass., 1971), pp. 429-62; *Acts Passed at a General Assembly of the Commonwealth of Virginia* . . . , 1831-32, pp. 20-22, 1857-58, p. 46; *Code of Virginia*, 1849, p. 458. The constitution of 1851 declared that the "general assembly shall not emancipate any slave, or the descendant of any slave, either before or after the birth of such descendant" (*Code of Virginia*, 1860, p. 46). Another indication of the economic vulnerability of free black Virginians is the significant number of black children whom county courts bound out to apprenticeships for no other stated reason than that the children were black (James W. Ely, Jr., "There are few subjects in political economy of greater difficulty: The Poor Laws of the Antebellum South," *American Bar Foundation, Research Journal* [1985], 867-68).

free blacks to own other blacks only temporarily, and perhaps the aversion of other Afro-Americans to human bondage guaranteed that free black possession of human property would be significant only as an anomaly, not as a typical experience. Moreover, owners of the type represented by Archibald Batte were especially unusual; few Afro-Virginians owned several other members of their race for profit. The number who owned six or more for any reason in 1830 was forty-one; that includes both fraternal and commercial owners and again is probably an overcount.⁸

It may be impossible to determine exactly how many blacks owned slaves for profit, for benevolent reasons, or for a combination of these purposes. Woodson's census data are inadequate by themselves; those data, supplemented by evidence from tax records and other sources, can serve only as an approximation of the actual number of Negro slaveowners and often provide only hints of the nature of any given person's possession of a fellow Afro-American. It is more fruitful to search for evidence concerning the varieties of such bondage and to analyze the exceptions within the exceptions—that is, black Virginians who owned more than two bondspeople. Woodson found only 237 such owners—again, probably an overcount—among the 55,307 free “people of color” in Virginia in 1830. He and Jackson looked for these exceptions some years ago but could find only a handful. Today's historians have better means at their disposal to find these elusive figures, but the resulting work has served to lower rather than raise estimates of the number of free black Virginians who owned other blacks for what various scholars have called purposes of exploitation, profit, capitalistic gain, or commercial development.⁹

Aggregate statistics from the census do, however, help to explain the environment in which free black slaveownership existed. Population trends reflected the anomalous character of ownership of bondspeople by free blacks. As the Old Dominion's white population grew, so the number

⁸ Woodson, *Free Negro Owners of Slaves*; U.S. Census Office, *The Statistics of the Population of the United States*, Vol. 1: *Population and Social Statistics* (Washington, D.C., 1872), pp. 68–72.

⁹ Jackson, *Free Negro Labor and Property*, pp. 206, 209–13, 216–22, 226; Woodson, *Free Negro Owners of Slaves*. John H. Russell, “Colored Freemen as Slave Owners,” *J. of Negro Hist.*, 1 (1916), 238–39; Jackson, *Free Negro Labor and Property*, p. 201, n. 5, and Leonard P. Curry, *The Free Black in Urban America, 1800–1850: The Shadow of the Dream* (Chicago, 1981), p. 270, make very important corrections of Woodson's data. Two other studies that question the Woodson thesis are R. Halliburton, Jr., “Free Black Owners of Slaves: A Reappraisal of the Woodson Thesis,” *South Carolina Historical Magazine*, LXXVI (1975), 129–42, and Larry Koger, *Black Slaveowners: Free Black Slave Masters in South Carolina, 1790–1860* (Jefferson, N.C., and London, 1985). I regard the latter two studies as only slightly more persuasive concerning the statistics of different kinds of black slaveownership than any other that has appeared.

of slaves held by whites for profit increased. The opposite was true of the free black population. As it expanded, the number of people held in slavery by free Negroes fluctuated dramatically during short periods and decreased steadily between 1830 and 1865. Length of residence in the Old Dominion by free Negroes also had no effect on their possession of slaves. In addition, relative representation of free "people of color" in the population of any jurisdiction made no difference. In those communities in which free blacks constituted a larger percentage than in others, there was not a proportionally larger number of slaveholders among them.¹⁰

The legal, social, and economic circumstances faced by free Virginians of African descent reveal more about the character of free black slaveownership than do statistics. For example, limitations on occupational opportunity assured that many free blacks would not even have the choice of whether to own slaves for profit or for any other reason. Few poor people of any color ever possessed human chattel. Many free "people of color" lived in a state of poverty or dependency because white Virginians generally barred them from the skilled trades and always kept them out of the professions. The high percentage of women among free black heads of household—over 50 percent in Petersburg between 1810 and 1860 and nearly 60 percent in Chesterfield County in 1833, three years after Archibald Batte's death—strongly influenced the prevalence of poverty, because women's choice of occupations was even more circumscribed than that of men.¹¹

Free Afro-Virginians enjoyed somewhat lower occupational opportunity than did other free black southerners. In Maryland and Virginia, where the free Negro population grew faster than in other southern states, free black workers were concentrated in the unskilled jobs. Conversely, such workers in South Carolina and Louisiana, where free Negroes were a smaller, and slaves a larger, percentage of the population, had greater access to skilled occupations. Free blacks there also owned relatively more slaves than did their fellows in Virginia or Maryland.

¹⁰ U.S. Census Office, *Statistics of the Population*, pp. 68–72; Nansemond and Northampton County Personal Property Taxes, 1830; Woodson, *Free Negro Owners of Slaves*, p. 39; Jackson, *Free Negro Labor and Property*, pp. 225–26. On Northampton, see Breen and Innes, "Myne Owne Ground"; Deal, "Race and Class in Colonial Virginia."

¹¹ Jackson, *Free Negro Labor and Property*, pp. 70–71, 200–229; Curry, *Free Black in Urban America*, pp. 15–36; Russell, *Free Negro in Virginia*, pp. 146–56; Berlin, *Slaves Without Masters*, pp. 217–49; Albert, "Protean Institution," p. 81; Lebsack, *Free Women of Petersburg*, pp. 96–100; Ely, "There are few subjects," pp. 867–68; "A List of Free negroes with their Taxable Property, Their Place of Residence and Occupations," Chesterfield County Personal Property Taxes, Lower District, 1818; "A List of Free Negroes, with their Taxable Property, their Place's of Residence and Occupations," *ibid.*, 1820; "List of Free negroes and Mulattoes," *ibid.*, Upper District, 1833; "A List of Free Negroes," *ibid.*, 1844.

Some of the wealthiest free black slaveholders in the United States lived in Charleston and New Orleans. The key to this paradoxical situation was that white workers and employers in Maryland and Virginia saw a greater need to exclude free black labor from skilled occupations than did such laborers and employers in South Carolina and Louisiana. Both of the Upper South states sought free labor as well as enslaved, and both were exporters of bondspeople; the two Lower South states planned to rely primarily on slave labor far into the future, and both were importers of lifetime servants. Such economic conditions discouraged free black slaveownership in the Upper South and encouraged it in the Lower South.¹²

At the same time, certain economic conditions had the opposite effect: they impelled those free Afro-Americans who held adequate capital assets to own slaves. Should free Negroes need a skilled or unskilled laborer, they could not ordinarily employ available whites. White leaders would not allow such a reversal of hierarchy in a society based on racial slavery, even when some whites desperate for work might have submitted to a Negro employer. Some free blacks were unavailable to other free blacks as laborers. Many capable free Negroes were tied to white employers or "patrons," sought to leave the Old Dominion for greater opportunity elsewhere, or congregated in towns and cities where they were useless to landowners. Free "people of color" who already owned human beings for profit faced a difficult economic choice when contemplating manumission. Emancipation of slaves might require not only payment of wages to workers who were now free, but also financial guarantees of support in accordance with the law of manumission. Such financial requirements obviously would make manumission more expensive than retaining slaves. No matter what their opinion on the morality of slavery, free Afro-Americans had to face these economic factors.¹³

Other blacks were more willing participants in the master class. Those free Negro Virginians who held slaves for profit had socioeconomic interests in common with white holders of chattel. Those free Negroes who acquired their bondspeople the same way they had gained their own free status—that is, as gifts or inheritance from white slaveowners—were especially likely to have the same socioeconomic interest in their

¹² Curry, *Free Black in Urban America*, pp. 15–36; Berlin, *Slaves Without Masters*, pp. 217–49; Koger, *Black Slaveowners*, pp. 140–86. Curry does not deal with Richmond, but Berlin's discussion of Richmond indicates that Curry's analysis of the Upper South holds true for the city.

¹³ For the effects of taxation on free blacks, see Tipton Ray Snaveley, *The Taxation of Negroes in Virginia* (Charlottesville, 1916), pp. 9–15, and Guild, *Black Laws*, pp. 137–41.

human property as did white slaveowners. Pharoah Sheppard and many others worked for certain white people because they had always labored for them. What had changed was their status: they had previously belonged to a white person but later were employed by that person. If they became free by direction of their owners' wills, they still were often dependent on the decedents' relatives for economic security unless their former masters or mistresses had provided them with a good means of livelihood. Such a testamentary provision considerably helped Archibald Batte. Not only did he apparently secure his freedom by his owner's will, but he thereby also acquired fifty acres of land and six slaves. Thus did his deceased owner help to assure that Batte would have the same economic interest in slaveholding as did white owners.¹⁴

The connection was sometimes stronger than commonality of interest or mere legal inheritance. Batte was probably the son of a white man. Similarly, Frankey Miles, a free Negro woman of Amelia County who owned nineteen slaves whom she inherited from Nathaniel Harrison, was reputed to be the mother of Harrison's two daughters. Several other free Negro owners of bondspople owed their freedom and some measure of prosperity to their white fathers. If Archibald Batte sought success in a slave society, he was doing nothing more than were millions of other young men in the nineteenth-century United States: he was aspiring to the status of his father. He consequently would be encouraged by both birth and inheritance to identify with white slaveholders, even though he was a mulatto. As early as 1780, James Madison argued that experience had already shown "that a freedman immediately loses all attachment & sympathy with his former fellow slaves." That did not prove to be true in all cases, but when some blacks became free propertyholders through the gifts or wills of their former owners, they were unlikely to reject either land or slaves as property because they knew both types of possession were security for their own freedom.¹⁵

¹⁴ On Sheppard, see note 4; on Batte, see note 1 and Prince George County Land and Personal Property Taxes, 1806 (1807 and 1808 missing), 1809, showing that Archibald Batte and other free black members of his family, especially Milly Batte and her children, began ownership of the same land previously held by Robert Batte, a white man. These events may be connected with an abstract of the now unavailable will of Robert Batte, recorded 3 Oct. 1807 ("Batte and Allied Families, Genealogical Notes," compiled by Robert Henry Batte, p. 7 [Vi]), which shows that the balance of Robert Batte's estate was to go to "Millys children." See also Jackson, *Free Negro Labor and Property*, pp. 200–229, and Philip J. Schwarz, "Clark T. Moorman, Quaker Emancipator," *Quaker History*, LXIX (Spring 1980), 27–35, for other examples.

¹⁵ On Batte, see notes 1 and 14. On Miles, see Jackson, *Free Negro Labor and Property*, pp. 217, 225 n. 61; *Dunlop et al. v. Harrison's ex'ors et al.* (1858), 55 Va. 468. On the others, see Jackson, *Free Negro Labor and Property*, pp. 200–229. The Madison quotation is found in James Madison to Joseph Jones, 28 Nov. 1780, in William T. Hutchinson et al., eds., *The Papers of James Madison*, II (Chicago, 1962), p. 209. See also Berlin,

The result was that even though there were not a large number of them, there were still several striking instances of free men and women "of color" who possessed enslaved blacks exclusively for commercial purposes. Historian Luther P. Jackson described several of these people. Among them were some who resembled Archibald Batte. Gilbert Hunt, a Richmond blacksmith celebrated for his part in saving some of the people trapped in the Richmond theater fire of 1811, eventually earned the money to buy his own freedom and then ran his shop with the aid of two slaves. Hunt was not alone among blacksmiths, Jackson found. He concluded that the "blacksmith trade probably embraced more slaveholding than any other occupations." Coopers, carpenters, boatmen, barbers, livery owners, draymen, and teamsters were the artisans and tradesmen most apt to own bondspeople. Unlike Batte, however, merchants owned few. Jackson even identified a few prostitutes who held property in slaves.¹⁶

Most of the Afro-Americans who held slaves solely for profit were farmers or plantation owners. Jacob Sampson of Goochland County steadily increased his holdings in both land and slaves between 1830, when he owned but one tract of land and no slaves, and 1860, when his eleven slaves worked more than 500 acres of his land. In Mecklenburg County, Priscilla Ivey gained substantial property in the form of five or more slaves and 1,304 acres, both of which she maintained from 1821 through 1856. Frankey Miles of Amelia County paid taxes on 1,100 acres as well as nineteen slaves in 1860. Even Archibald Batte depended for income on his fifty-acre inheritance in Prince George County, although he kept his slaves there only between 1807 and 1816. The Lipscomb family of Powhatan and Cumberland Counties also relied on a combination of landownership and slaveownership for its support.¹⁷

The legal, social, and economic environment of Virginia was such that benevolent black masters had to use some of the same techniques for protecting their human property that were regularly employed by commercial owners. In a marriage contract of 1817, for example, Lydia Thomas of Petersburg assigned her personal estate, which included a

Slaves Without Masters, p. 274. It is worth speculating whether Batte and other mulatto slaveowners differentiated themselves from their Afro-American property in terms of color as well as of status.

¹⁶ See note 11 and Jackson, *Free Negro Labor and Property*, pp. 214–22; Dabney, *Richmond*, pp. 91, 98, 156. For comparative evidence from South Carolina, see Koger, *Black Slaveowners*, pp. 140–59.

¹⁷ Jackson, *Free Negro Labor and Property*, pp. 211 n. 23, 214–22; Prince George County Land and Personal Property Taxes, 1806, 1809–17.

slave, in trust to other free blacks.¹⁸ Free Negroes regularly offered their slaves as security for loans or debts, but the special, sensitive nature of some free black slaveownership is apparent in one man's risking of the loss for debt of a slave who may have been his own son. An offer of such security probably gave greater assurance to the creditor than might otherwise be possible that the debt would be paid, but it resembled many other features of slaveownership by free blacks in that it exposed the owner and his loved one to grave risk. Some free Negro owners also hired out their property, just as white owners did, in order to secure income. Finally, black holders of such property regularly willed it to their descendants or other beneficiaries. When they did not bestow direct inheritance, they at least set up trusts or made loans.¹⁹

There were other perils involved in this sort of ownership, no matter what its purpose was. When Nathaniel Harrison tried to provide for Frankey Miles and her children, he directed that they be supported partly by the labor of numerous slaves to be held in trust by whites. Harrison's other heirs successfully brought suit against the executors in order to block the free blacks' receipt of such a benefit. "What the free negro cannot take directly he cannot be permitted to take indirectly," concluded Justice George Lee of the state's court of appeals in 1858, but the court would allow Harrison's intended beneficiaries to be paid the proceeds from the sale of the slaves. Yet tax records show that Frankey Miles owned nineteen slaves from 1860 through 1865. Justice Lee had indicated that this might happen in spite of its illegality. Miles thus kept an unusually large number of bondpeople, but not particularly securely.²⁰

Three Richmonders learned through experience about some of the risks of owning bondpeople in a slave society. Robert Davis, property of the estate of Mayo's Judy, was convicted in October 1798 of stealing tobacco from the Shockoe warehouse. The Richmond Hustings Court sentenced him to thirty-nine lashes. Two months later, the same court condemned Davis to death for attempted murder of a white man. Davis did not hang, but he certainly had presented legal problems to the estate of Mayo's Judy. Mary Quickley faced another kind of legal challenge. In 1802 her slave Sarah brought a freedom suit against Quickley for illegally holding her in bondage. Only the failure of the plaintiffs in this and two

¹⁸ Lebsack, *Free Women of Petersburg*, p. 75; Jackson, *Free Negro Labor and Property*, pp. 206-7.

¹⁹ Jackson, *Free Negro Labor and Property*, pp. 213-14; Will of Archibald Batte, proved 12 Apr. 1830, Chesterfield County Wills, 1826-30, p. 614. See also note 22.

²⁰ *Dunlop et al. v. Harrison's ex'ors et al.* (1858), 55 Va. 468; Jackson, *Free Negro Labor and Property*, pp. 217, 225 n. 61.

related cases to pursue their suits saved Quickley from financial loss. Reuben West, a relatively prosperous barber, did not have to go to court to deal with a troublesome slave. He chose instead to use the old technique of sale to rid himself of a woman whom he had purchased as a cook but whom he later accused of insubordination. A Norfolk woman named Betsy Fuller owned, and therefore had to take responsibility for, her particularly outspoken husband, who announced in 1861 that he supported secession and did not desire to be freed.²¹

Not all cases of free black slaveholding were what they seemed. In fact, they sometimes were quite the opposite. For example, Samuel Smith, a boatman of Chesterfield County, seems to have been simply another free black owner of six or more slaves. The United States census of 1830 identified him as such, and county tax records showed that by 1843 he had ten taxable chattels. Yet, contrary to all appearances, Smith had no intention of treating these people only as means of profit. They were all members of his family. His motives were more apparent in his will, by which Betsy Smith, his daughter-in-law, was to hold Samuel's family until her death, after which they would be free. That status would be guaranteed by sale of some land, the proceeds of which were to be distributed equally among the former slaves "to remove them from the state" and for "settling them in a free state." In this respect, Samuel Smith did not differ from many other free "people of color" in Virginia who owned one or a few slaves. They possessed those people to protect them; they usually intended to emancipate their chattel when possible. Moreover, they were doing all they could to safeguard their loved ones in Virginia.²²

The prominence of free black Virginians among emancipators of slaves both before and after the restrictive law of 1806, which declared that freed people must leave the state within a year, is ample testimony to the objective of benevolent black masters. Their possession of human property was to be temporary and would end as soon as possible. The statutes of the commonwealth after 1806 included numerous grants of permission to free blacks to remain in Virginia long enough to free family

²¹ Richmond Hustings Court O. B., 1797–1801, pp. 195–96, 220, 1801–4, pp. 41, 88, 149, 183, 242, 284, 317, 378; Russell, "Colored Freemen as Slave Owners," pp. 238–39; Russell, *Free Negro in Virginia*, pp. 92 n. 21, 95 n. 34; *Lower Norfolk County Virginia Antiquary* (hereafter cited as *LNCVA*), IV (1902–3), 177, n. 46; Jackson, *Free Negro Labor and Property*, pp. 220, 222.

²² Woodson, *Free Negro Owners of Slaves*, p. 34; Jackson, *Free Negro Labor and Property*, pp. 213–14; Chesterfield County Personal Property Taxes, especially Upper District, 1833 and 1843; Chesterfield County Wills, 1846, pp. 150–51.

Black slaveowners were a distinct minority within Virginia's free black population. Most black slaveholding was fraternal and protective. Lewis Turner, for example, a free black slaveholder of Sussex County, owned his wife. He declared in his 1818 will, shown below, that "the woman Aggai which I purchased of Henry Chappell and which I have had for my beloved wife for many years should be free and clear from the controul of any person as a Slave." Rarer were examples of blacks owning other blacks for commercial reasons. Gilbert Hunt, shown on the right, a Richmond blacksmith, ran his shop with the aid of two slaves.



Virginia Historical Society

Imprimis I direct that my body be buried in a decent and Christian manner and as soon afterwards as conveniently can be I direct that all my just debts be paid them. It is my wish, will and desire that the woman Aggai which I purchased of Henry Chappell and which I have had for my beloved wife for many years should be free and clear from the controul of any person as a Slave. but having understood that the Laws of this State will not admit of Slaves being emancipated and to remain therein for a longer time than twelve months after such emancipation without the consent of the Legislature thereof I do therefore hereby direct my Executor herein after named to petition the honorable Legislature

Virginia Historical Society

members by purchase and subsequent emancipation. Between 1790 and 1806, free blacks constituted from 13 to 39 percent of emancipators in such diverse locations as York, Isle of Wight, Spotsylvania, Amherst, Powhatan, Amelia, and Charlotte Counties as well as the cities of Norfolk and Petersburg.²³ In the latter city after 1806 and until 1860, free black owners were responsible for about one-third of recorded manumissions. As Suzanne Lebsock has shown, women were prominent among these Petersburg emancipators. One, Jane Minor, stands out because of her extraordinary acquisition and freeing of sixteen women and children between 1825 and 1848.²⁴

Many other free blacks could not emancipate their slaves, however. The problem of surmounting the 1806 law prohibiting a person's continued residence in the state after being freed worked against such acts of manumission. Like other fraternal owners, Lewis Turner of Sussex County well understood this difficult obstacle when he made his will in 1818. "It is my wish, will and desire," he stated, "that the woman Aggai which I purchased of Henry Chappell and which I have had for my beloved wife for many years should be free and clear from the controul of any person as a Slave." Turner directed his executor to petition the legislature for permission for Aggai Turner to remain in the Old Dominion. Should that not be granted, the estate should loan Mrs. Turner to Lewis Turner's nephew, Wylie Turner. In other words, if Aggai Turner wished to stay with her family and friends, she probably would have to do so at the cost of staying in slavery. There were also economic factors that made it risky for free "people of color" to free their loved ones. Peter Spain of Richmond expressed his affection for his enslaved wife in his will of 1840. Therein he manumitted "my friend who though my slave at this time I have for many years considered as my wife." But he also made provision for her survival as a free person. Spain's executors were to use the estate to protect his wife "in the enjoyment of her freedom."²⁵

²³ Albert, "Protean Institution," pp. 278–79; Guild, *Black Laws*, pp. 96–118; Jackson, *Free Negro Labor and Property*, pp. 203–4.

²⁴ Luther P. Jackson, "Free Negroes of Petersburg, Virginia," *J. of Negro Hist.*, XIII (1927), 383–84; Lebsock, *Free Women of Petersburg*, pp. 95–96, 106.

²⁵ Will of Lewis Turner, 5 Nov. 1818, Virginia Historical Society, Richmond (hereafter cited as ViHi), also printed in Johnston, *Race Relations and Miscegenation*, App. II; Will of Peter Spain, Feb. 1840, Claiborne Family Papers, 1665–1911, ViHi; Lebsock, *Free Women of Petersburg*, p. 105. In spite of the impossibility of their being legally married, I have referred to Aggai as "Mrs. Turner" because Turner referred to Aggai as "his wife," a Virginia state court justice was willing to call a female slave by the last name of her free black husband, and it is also a matter of common sense (*M'Candlish, Adm'r &c. v. Edloe et al.* (1846), 3 Gratt. 332 [44 Va. 703]).

The existence of fraternal slaveholding did not preclude oppression by Afro-Americans of fellow Afro-Americans. But there is very little evidence of such oppression in the Old Dominion. There are few court cases and little private testimony concerning cruelty or the refusal to honor a bondsperson's claim to freedom. Sarah's unsuccessful freedom suit against Mary Quickley and Reuben West's use of the harsh sanction of sale to deal with an insubordinate slave are clear, but rare, examples of oppression. There were, however, situations that combined the rigors of slaveownership with the pain of human conflict. Especially when a spouse owned a spouse, the owner-slave relationship could become bitter or even dangerous. Martha Scott, free "woman of color" of Petersburg, so feared her slave and common-law husband, Arthur Wyatt, that when she had him jailed for her protection in 1832, she emancipated him upon the condition that he immediately leave the state. Wyatt apparently did, but Scott's house burned to the ground shortly after her husband was released from jail. Overshadowing all these unions was the reality that the law would never solemnize anyone's marriage to a slave.²⁶

Some lifetime servants attempted to become the property of other blacks because they regarded possession by a black as somehow safer than being owned by a white. Dred, the property of John Underwood of Southampton County, both desired to be, and thought he had the means of being, owned by a "woman of color." According to Elizabeth Turner, the twenty-eight-year-old Dred had sought her out in the early spring of 1821 and asked her to buy him from Underwood. When Turner pleaded lack of money, Dred replied that he knew where to secure it. Turner later learned that he may have stolen the money during the burglary of a store in Jerusalem that allegedly involved \$8,000 in goods and currency. Dred did not gain his objective. Instead, Elizabeth Turner's testimony helped to convince the Southampton County Court of Oyer and Terminer to convict him of burglary and theft, for which he was transported out of Virginia and sold somewhere outside the United States. Other slaves, however, would find free black men and women willing and able to buy them in order to protect them or free them. They would, that is, only until 1 July 1832, after which free "people of color" might legally buy only their spouse or child.²⁷

²⁶ Lebsack, *Free Women of Petersburg*, p. 105.

²⁷ Southampton County Court O.B., 1819-22, pp. 305-6; *Condemned Slaves*, box 4, Virginia Auditor's Office, Item 153; *Acts, 1831-32*, p. 21. Similar court records unfortunately give only very rare glimpses of the lives of black slaveowners.

Black masters participated in the institution of slavery on the same unequal basis as all free “people of color” participated in any institution in the Old Dominion. In 1858, before further tightening of the restrictive law of 1832 concerning free black slaveownership, a judge elected to the state court of appeals expressed the reigning white understanding of that law. Its object, George Lee declared, was “probably to keep slaves as far as possible under the control of white men only and prevent free negroes from holding persons of their own race and color.” There may have been another intention of the lawmakers, he added, which was “to evince the distinctive superiority of the white race.” As Eugene D. Genovese has written, the white community was willing to make a few exceptions or to look the other way on the matter of slaveownership by free “people of color,” “especially since the force of custom and local usage so often modified southern legal arrangements.” But the experience of free blacks in Virginia reveals what whites believed to be a tolerable level of such slaveholding. The reason for the 1832 law was not just fear of free Negro support for slave rebellion; it was also concern about changes in the general relationship between free “people of color” and whites.²⁸

The free Negro population of Virginia had grown by nearly 120 percent between 1806 and 1832; as a percentage of the total population, it had moved approximately from 3.5 to 4.5 percent. Moreover, as if presaging the future in the state to the south, Maryland’s free “people of color” had increased to an even greater extent. It was troublesome enough to whites that Virginia’s influence in the nation had declined, its economy had endured extended depression, and so many of its young people were migrating elsewhere, but to these conditions were added fears that its still-growing slave population was becoming more rebellious. Furthermore, the citizens of the western part of the commonwealth had forced public discussion of general emancipation within the previous year. All of this could only encourage repression of free Negroes. James Madison, who had expressed such a placid view of freedmen in 1780, had stated in 1826 that “manumissions more than keep pace with the outlets provided,” meaning that white society was having difficulty receiving the

²⁸ *Dunlop et al. v. Harrison's ex'ors et al.* (1858), 55 Va. 468; Eugene D. Genovese, “The Slave States of North America,” in Cohen and Greene, eds., *Neither Slave Nor Free*, p. 268. In an unpublished opinion of 1832, U. S. Attorney General Roger Brooke Taney declared that where free blacks were “nominally admitted by law to the privileges of citizenship, they have no effectual power to defend them, and are permitted to be citizens by the suzerainty of the white population and hold whatever rights they enjoy at their mercy.” Taney’s damaging pronouncements on free black ineligibility for citizenship in his Dred Scott opinion of 1857, one year before Justice Lee’s opinion quoted herein, are notorious. For the 1832 opinion, see Leon F. Litwack, *North of Slavery: The Negro in the Free States, 1790–1860* (Chicago, 1961), pp. 52–53.

newly freed. Colonizationists and proslavery apologists wanted either the expulsion or reduction to bondage of all free blacks. Given such desires, the next best solution was to decrease their power—albeit without lessening the economic utility of some free blacks to Virginia's economy.²⁹

Reduction in the power of free blacks over slaves proceeded apace from 1832 through the Civil War. Northampton County, which was the home of one of the oldest free black communities in the commonwealth, secured state legislation that empowered it to expel all free blacks. Although the law was selectively enforced, the number of free "people of color" in Northampton still decreased by 43 percent between 1830 and 1840; the percentage of free blacks in the county's total population dropped from 15.4 to 9.8. Six free Negroes in that Eastern Shore jurisdiction owned one slave each in 1830. By 1860, only two did. It was not ownership of property by free blacks as such that Northampton's whites sought to end, as the continued presence of landowners indicates. Two hundred had owned some kind of property in 1830; in spite of the loss of population, 180 still did in 1860. But the proportion of those people who owned human property went from 3 percent in 1830 to 1 percent three decades later.³⁰

The record of other counties and cities that showed less severe hostility to free blacks is similar for slaveownership between 1830 and 1860. Although it is true that authorities regularly overlooked violations of the laws concerning free black ownership of lifetime servants, the tax collectors tried not to ignore such possession. The personal property taxes uniformly show a dramatic change in free black ownership of chattel. In Archibald Batte's home county of Chesterfield, about a dozen free blacks owned thirty or so slaves in 1830. The average number owned was 2.4. (The figures cannot be absolutely precise because of conflicts within or among the records.) By 1860, only four people possessed an average of 1.25 people. Nearby Petersburg's free black slaveowners numbered seventy in 1830 but only nine in 1860. Princess Anne's seven free Negro

²⁹ U.S. Census Office, *Statistics of the Population*, pp. 68–70; Berlin, *Slaves Without Masters*, pp. 188–89, 199–212; Jordan, *White Over Black*, pp. 542–69; John Chester Miller, *The Wolf by the Ears: Thomas Jefferson and Slavery* (New York and London, 1977), pp. 264–72; Johnston, *Race Relations and Miscegenation*; Oates, *Fires of Jubilee*, pp. 151–66. On the general problems of Virginia, see Daniel P. Jordan, *Political Leadership in Jefferson's Virginia* (Charlottesville, 1983); Virginius Dabney, *Virginia: The New Dominion* (Garden City, N.Y., 1971), pp. 275–83; David R. Goldfield, *Urban Growth in the Age of Sectionalism: Virginia, 1847–1861* (Baton Rouge and London, 1977), pp. 1–6; Jack P. Maddex, Jr., *The Virginia Conservatives, 1865–1879* (Chapel Hill, 1970), pp. 5–17; Alison G. Freehling, *Drift Toward Dissolution: The Virginia Slavery Debate of 1831–1832* (Baton Rouge and London, 1982). Madison is quoted in Russell, *Free Negro in Virginia*, p. 81.

³⁰ *Acts*, 1831–32, p. 23; U.S. Census Office, *Statistics of the Population*, pp. 68–70; Northampton County Personal Property Taxes, 1830 and 1860.

slaveowners held an average of only 1.16 men and women in 1830; a mere one owned a single slave by 1860. There had been no such dramatic general decline in landownership by free Negroes in the same period; instead, it had grown in many locations. It remained possible for free "people of color" to hire slave labor. The law never limited that practice. But the statutes of 1832 and 1858 effectively reduced both protective and commercial ownership.³¹ Family members certainly would have been grateful for the protection afforded them by fraternal masters or mistresses. Yet the cook whom Richmond barber Reuben West sold for insubordination may have had no higher regard for West than for any white slaveholder. Freedom must have seemed so close and yet so far to enslaved members of the free blacks' labor force. Those who lived in counties and cities where significant numbers of slaves were owned by free Negroes in preparation for emancipation undoubtedly perceived their own situations in sharper terms.³²

Twentieth-century observers are often surprised to learn that even a few blacks both could and would hold people of their own race in bondage for their own profit—that is, many North Americans are. Brazilians and West Indians are more accustomed to the idea, because the size of their free black population was so much higher relative to both the white and enslaved populations, and occupational opportunity was better for those free Negroes than for North American free "people of color." In the United States, Louisianans and South Carolinians might find it easier to comprehend free Negro slaveownership because of conditions in those states before 1865.³³ Yet from a global perspective, there is nothing at all

³¹ See note 11 and Chesterfield Personal Property Taxes, 1830, 1860; Jackson, *Free Negro Labor and Property*, pp. 225–29; LNCVA, I (1895–96), 11–16, 39–44, II (1895–96), 57–59, IV (1902–3), 174–82, V (1904–6), 7–16; Woodson, *Free Negro Owners of Slaves*, pp. 34–35, 41. The level of contemporary white hostility toward free blacks appears in a bill introduced in the state legislature in 1853 requiring the removal of all free Negroes. The bill did not pass, but it had been backed by at least two public meetings, one in Norfolk and the other in Goochland County (Josephine F. Pacheco, "Margaret Douglass," in Philip S. Foner and Josephine F. Pacheco, *Three Who Dared: Prudence Crandall, Margaret Douglass, Myrtila Miner: Champions of Antebellum Black Education*, Contributions in Women's Studies [Westport, Conn., 1984], p. 84).

³² George P. Rawick, ed., *The American Slave: A Composite Autobiography* (41 vols.; Westport, Conn., 1972–79), 1st ser., VIII, Arkansas, pt. 1, 202–3. Other slave narratives from Virginia, such as Charles L. Perdue et al., eds., *Weevils in the Wheat: Interviews with Virginia Ex-Slaves* (Charlottesville, 1976), contain no evidence concerning Afro-American slaveowners.

³³ Curry, *Free Black in Urban America*, pp. 44–46, 270–71; Woodson, *Free Negro Owners of Slaves*; Cohen and Greene, eds., *Neither Slave Nor Free*, pp. 66, 165–66, 245–46, 267–70; Koger, *Black Slaveowners*; Michael P. Johnson and James L. Roark, *Black Masters: A Free Family of Color in the Old South* (New York and London, 1984); Michael P. Johnson and James L. Roark, eds., *No Chariot Let Down: Charleston's Free People of Color on the Eve of the Civil War* (Chapel Hill, 1984); Ulrich B. Phillips, *American Negro Slavery: A Survey of the*

unusual about people holding other people of the same race or ethnic group in bondage. That form of slavery was, in fact, the norm rather than the exception. Many West African tribes, for example, allowed enslavement not only of people from other tribes, but also of members of the same tribe. Historians have found that some of this slaveholding was domestic in character: it was benevolent or relatively open-ended, because such slaves were often truly part of the slaveowners' families, regularly married into those families, and frequently were freed. In other words, the fraternal form of slaveholding by free blacks in Virginia, a widespread variety of all such ownership, had a few features in common with domestic slavery in some West African tribes, although it was hardly the same thing.³⁴

In contrast to practices in some West African tribes, slaveownership by free black Virginians was peculiar to them. White Virginians owned no other whites; Afro-Americans obviously possessed no Euro-Virginians. Those who held power in Virginia also limited such possession much more stringently than did West African tribal authorities. Some white Virginians held their own children or relatives of their children in slavery, but that was often a matter of shame to them.³⁵ In contrast, a widespread form of ownership among black Virginians was fraternal, protective, and benevolent by design. Yet it existed primarily because of the economic, social, and legal dangers to which free black Virginians were exposed, and it was hardly supposed to exist at all after 1858. Moreover, commercial slaveownership by free Negroes was particularly anomalous in the Old Dominion because of limitations on occupational opportunity peculiar to Virginia and the Upper South. Indeed, after 1832 such ownership was no longer a legal option for any free Negroes who did not already own slaves or who would not inherit them.

Fraternal slaveownership by free "people of color" in Virginia was typical of many techniques employed by free and enslaved blacks to protect themselves. It did work at times to preserve blacks' nuclear and extended families. It also served for a long time as a means of making emancipation possible. Commercial ownership helped some free Negroes

Supply, Employment and Control of Negro Labor as Determined by the Plantation Regime (New York, 1918), pp. 433-36.

³⁴ Patterson, *Slavery and Social Death*, pp. 172-79, 266-82; Suzanne Miers and Igor Kopytoff, eds., *Slavery in Africa: Historical and Anthropological Perspectives* (Madison, Wis., 1977); Paul E. Lovejoy, *Transformations in Slavery: A History of Slavery in Africa* (Cambridge and New York, 1983); Philip J. Schwarz, "Adaptation of Afro-American Slaves to the Anglo-American Judiciary," paper delivered at the Forty-first Conference of the Institute of Early American History and Culture at Millersville State College in Pennsylvania, Apr. 1981.

³⁵ Johnston, *Race Relations and Miscegenation*.

establish themselves economically and perhaps even socially. But in these cases, such possession had the effect, whether intended or not, of upholding slavery. Black Virginians seemingly had the option of running away or even, like the American revolutionaries, revolting. But the first option was not a real one to those who would not tolerate separation from their families, and the second was an impractical choice because of the greater firepower and military training possessed by the whites. Consequently, many slaves had to remain slaves in order to save themselves from the worst aspects of bondage. Nothing underlines the nature of this hard choice so well as the custom, after 1856 the legal option, of "voluntary reenslavement" to whites by some free blacks to save themselves economically or to stay with their families in Virginia.³⁶

Anthony Johnson in the seventeenth century and Archibald Batte in the nineteenth were unusual people indeed. They looked as if they had achieved success, but the reality was somewhat different. Johnson left the Old Dominion in the 1660s, when Virginia was well on its way to becoming a slave society in which there could be very, very few people like him for years thereafter.³⁷ Archibald Batte died in 1830. His wife died one year later, and in 1832 so did the opportunity for many new black commercial slaveholders to emulate Batte because of a change in the law. Henry S. Batte, a minor in 1831, held on to his father's property for only a short while. In 1839 he sold the land. One reason for doing so was that he had moved to Pittsburgh to try to find a better life, although even Pennsylvania had disfranchised free blacks in 1838.³⁸

In slave societies "nothing escaped, nothing and no one," Frank Tannenbaum wrote over four decades ago.³⁹ Anthony Johnson and Henry S. Batte could not escape slavery while in Virginia, and neither could any other free black slaveholders. Commercial slaveowners separated themselves from most of their fellow Afro-Americans when they adopted the economic mores of white owners; yet they hardly were welcomed into the ranks of whites as a result. Fraternal slaveowners suffered the risks of slaveholding and upheld slavery in order to try to

³⁶ Acts, 1855–56, pp. 37–38; Russell, *Free Negro in Virginia*, pp. 108–9.

³⁷ Breen and Innes, "Myne Owne Ground," pp. 107–9; Deal, "Race and Class in Colonial Virginia," pp. 192–473; Anthony J. Parent, "'Either a Fool or a Fury': The Emergence of Paternalism in Colonial Virginia Slave Society" (Ph.D. diss., UCLA, 1982).

³⁸ Chesterfield County Deeds, 1839–41, pp. 172, 194, 1846–48, pp. 60, 597–98; Litwack, *North of Slavery*, p. 86.

³⁹ Frank Tannenbaum, *Slave and Citizen: The Negro in the Americas* (New York, 1946), p. 115.

protect loved ones. Free black emancipators had to have the means to provide economic protection for their former property; through time-consuming, sometimes unsuccessful, and perhaps expensive petitions to the legislature, they also had to guarantee the legal survival of their former slaves against the 1806 law that required emancipated blacks to leave the Old Dominion within one year of being granted freedom. Johnson and other commercial owners had to defend themselves against challenges to their control of bondspeople. A Sarah could bring a freedom suit against a Mary Quickley, and the state legislature would end the possibility of most future ownership for profit by prohibiting, after 1832, the acquisition of slaves who were not relatives of the proposed free black owner. Nor could potential fraternal owners count on being able to buy their relatives. They might lack the funds or else suffer the consequences of the 1858 law, which banned all further purchases of slaves by Afro-Virginians under any circumstance.

Free black ownership of slaves, which did exist in Virginia, shows that opportunity of a kind was open to some free "people of color," but as the slave society of Virginia grew older and larger, it was an increasingly limited opportunity. These conclusions certainly confirm the value of the work of Luther P. Jackson and several other early twentieth-century black historians. Yet those scholars played down the increasing legal oppression to which free Negro slaveholders were subjected. In the attempt to document the achievements of these Afro-Americans, they gave less attention to the significance of the legal barriers to free black success. Some more recent students of the phenomenon of free black slaveownership have attempted to prove that the dominant form of possession of chattel by free "people of color" was commercial and exploitative, especially in South Carolina. Based partly on statistical analysis that is no more persuasive than that of Woodson, these studies have also given insufficient attention to the restrictive legal, social, and economic environment in which free black Virginians struggled to protect their slave property for either commercial or benevolent reasons.⁴⁰ When ownership of bondspeople by free "people of color" is placed into the context of the white supremacist and proslavery laws and society of Virginia, however, it stands out as all the more remarkable as well as anomalous.

⁴⁰ Halliburton, "Free Black Owners of Slaves," pp. 129-42; Koger, *Black Slaveowners*. Space prohibits an adequate analysis of the contribution made by these studies.