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GABRIEL'S CHALLENGE

Slaves and Crime in Late Eighteenth-Century Virginia

by PHILIP J. SCHWARZ*

IN October 1799 a small but revealing fracas took place in Henrico County, Virginia. Gabriel, a slave who belonged to Thomas Henry Prosser, fought with Absalom Johnson, a white former overseer who had recently begun to rent part of Col. Nathaniel Wilkinson's plantation. The trouble began when Johnson caught Wilkinson's slave Jupiter stealing a hog from that farm. Solomon, Gabriel's brother and another slave of Prosser's, threatened Johnson. Gabriel did far more. He struggled with Johnson and bit off "a considerable part" of his left ear. Johnson retaliated by bringing all three slaves before the Henrico County Court.¹

On 7 October 1799, five Henrico County justices of oyer and terminer tried Gabriel for the capital crime of maiming Johnson. Charles Copland, a young lawyer, defended Gabriel. The justices unanimously concluded "that the said Gabriel is Guilty of the Crime with which he stands accused." Acting as regular county justices, the same five men convicted

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¹ Henrico County Order Book (hereafter cited as O.B.), 1799-1801, pp. 94-95, Virginia State Library, Richmond (hereafter cited as Vi). Unless otherwise indicated, all order books cited are on microfilm at Vi). This incident in Gabriel's life has remained virtually unknown. One nineteenth-century historian referred to Gabriel's "biting off the ear of a fellow slave," while another declared, without giving details, that Gabriel and Solomon "were both known to be negroes of truculent and vicious characters. The former had already been the subject of a criminal prosecution on this account" (Robert A. Brock, "James Monroe," in *Hardesty's Historical and Geographic Encyclopedia . . . Special Virginia Edition* [New York, Richmond, Chicago, and Toledo, 1884], p. 354; article on Gabriel's Plot from *Richmond Times*, n.d. [1890 or 1891], William P. Palmer Scrapbook [1890-95], p. 103, Virginia Historical Society, Richmond [hereafter cited as ViHi]).

Jupiter of the misdemeanor of hogstealing. The men also reviewed Johnson's complaint concerning Solomon's threats but then dismissed it.²

Three of the five gentlemen who heard the 1799 charges would try the same three slaves again about a year later for a capital crime. In that instance, these slaves clearly had engaged in something more than criminal conduct. Gabriel, Jupiter, and Solomon plotted to defy slavery itself within a year after the 1799 incident. Participants in an insurrectionary plot of major proportions in 1800, Gabriel and Jupiter would die on the gallows, the former for leading the conspiracy and the latter for giving it active support. Solomon would be condemned to die for his support of Gabriel but would escape the gallows by incriminating other slaves.³

While the only deaths that resulted from the conspiracy were those of nearly three dozen of the accused rebels, including Gabriel and Jupiter, the impact of the discovery of this extensive plot was dramatic. It made many previously complacent whites realize that numerous slaves had completely rejected the republican solution to the American dilemma. If former revolutionaries refused to extend liberty to black people on the grounds that it was unsafe for republicanism to entrust them with freedom, then thousands of slaves were prepared to become revolutionaries themselves, making repression just as unsafe in reality as whites feared general emancipation would be.⁴

Such insurrectionaries develop over time; they do not sprout overnight like weeds. The criminals of 1799 were some form of the rebels of 1800. These men did not think in exactly the same way in 1800 as they had in 1799. Indeed, they may not have been ready for collective revolt until after the 1799 incident. But the criminals of 1799 were on their way to becoming the revolutionaries of 1800. Although to a lesser degree, Gabriel, Jupiter, and Solomon consciously challenged the system of slave control in 1799 as they did in 1800.

Another indication that the incident of 1799 involved conscious resistance to aspects of slavery is its atypicality. Gabriel in particular both defied

² Henrico County O.B., 1799-1801, pp. 94-95. On Charles Copland, see Charles Copland, petition, 5 Dec. 1798, Richmond City Legislative Petitions, 1798-1803, Vi; Diary of Charles Copland, 1788-1822, Vi.

³ On Gabriel's Plot, see Gerald W. Mullin, *Flight and Rebellion: Slave Resistance in Eighteenth-Century Virginia* (New York, 1972), pp. 124-63. The surname Prosser has not been ascribed to Gabriel in this article because no extant eighteenth or nineteenth-century document does so and no evidence of Gabriel's preference appears to have survived.

⁴ Winthrop D. Jordan, *White Over Black: American Attitudes Toward the Negro, 1550-1812* (Chapel Hill, 1968), pp. 393-96; Duncan J. MacLeod, *Slavery, Race, and the American Revolution* (Cambridge, 1974); Mullin, *Flight and Rebellion*, pp. 157-58.

the law and assaulted custom. Eye-gouging, ear-biting, and even more devastating forms of physical combat were common among equals in late eighteenth-century Virginia.⁵ It was the rare slave, however, who attacked whites openly and physically. Solomon's threats and Jupiter's hogstealing were more common than open assault. Yet even they endangered the slave system as well as people and property if not countered in some way, such as by court action. It was also unusual that hogstealing, threatening, and maiming had occurred during the same incident.⁶

In the courtroom of 1799, the Henrico County justices did not recognize that they were dealing with conscious resistance to aspects of slavery. They gave Jupiter only the standard punishment for hogstealing and dismissed Johnson's complaint against Solomon for his threats. When serving as justices of oyer and terminer, they granted Gabriel benefit of clergy and required his master to post a bond for his good behavior without inflicting any of the physical punishment usually given to slaves granted benefit. These relatively moderate sanctions reflected the judges' assumption that the three slaves had merely engaged in common criminal behavior which could be controlled through the use of standard judicial procedures.⁷

On the other hand, Absalom Johnson and Thomas Henry Prosser probably did understand that Gabriel, Jupiter, and Solomon were determined to resist specific aspects of slavery, which required a strong response. By transferring his dispute with the bondsmen from the private to the public sector, Johnson in effect was admitting that in spite of his previously successful experience as an overseer of a large number of slaves, he could not singlehandedly control these slaves. In his turn, Prosser ensured that Gabriel would suffer the wretched conditions of the Henrico County jail for a month. This was a private decision to employ a public institution to suppress Gabriel. Prosser thereby put Gabriel under more pressure to conform than had the powerful justices. It is no wonder that the rebels of 1800 targeted

⁵ François-Jean Chastellux, *Travels in North America in the Years 1780, 1781 and 1782*, ed. Howard C. Rice, Jr. (2 vols.; Chapel Hill, 1963), II, 601-2; Isaac Weld, Jr., *Travels Through the States of North America and the Provinces of Upper and Lower Canada, During the Years 1795, 1796, and 1797* (London, 1799), p. 110; Samuel Mosby deposition, 4 May 1798, Miscellaneous Correspondence, Sheppard Papers, Box A, Meadow Farm Museum, Henrico County, Va.; Shilton Crosthwait to Gov. William H. Cabell, 28 July 1806, Virginia Executive Papers, Letters Received, Box 140, Vi. The maiming charge derived from a 1792 statute (Samuel Shephard, *The Statutes at Large of Virginia, . . . October 1792 to December . . . 1806, Inclusive* [3 vols.; Richmond, 1835], I, 112).

⁶ In a study of nearly 4,000 eighteenth and nineteenth-century criminal trials of slaves in Virginia for diverse offenses, the author has found no similar instance. In 1,893 extant trial records from the years 1706 through 1785, only 17 assault trials appear.

⁷ Henrico County O.B., 1799-1801, pp. 94-95.

Johnson and Prosser, the two most aggressive white authorities involved in the 1799 incident, for the first killings in the uprising.⁸

For a brief moment, the episode revealed the tensions within the slave society of Virginia. The hogstealing, the fracas, Solomon's threats, Johnson's levying of criminal charges, the court action, and Prosser's keeping Gabriel in jail all arose from conflicting definitions of acceptable slave behavior and competing methods of slave control. Former overseer Johnson's vigorous attempts to subdue the three slaves articulated his rigorous standards for the suppression of unruly slaves. The slaves' actions indicated a directly contrary commitment to slave resistance and individual rights. The court proceedings and Prosser's response to Gabriel's actions reflected the relative power of various white citizens and assertive slaves.

The importance of the diverse personal histories, social statuses, and circumstances of the protagonists and antagonists is discussed here. Also considered are the regional and temporal variations in slavery, the nature of hogstealing, and the criminal law and courts for slaves, and their impact on the distinctive character of the conflict in which Gabriel and his allies challenged aspects of the slave system. While there is no direct testimony from the participants, a large body of evidence suggests the conditions which they faced. An analysis of that situation illuminates the patterns of other slaves' interaction with white authorities. While little or nothing is known about the perceptions of the men involved, a great deal can be learned about the environment in which they acted.

The status and personality of each slave in the episode strongly influenced his behavior. The varying personal histories of Johnson, Prosser, and Wilkinson and the different ways they fit into society also raise questions about the manner in which they dealt with slaves. Finally, the interaction of these individuals suggests important questions about how their legal and social relationship with one another influenced the pattern of challenge and response.

The three aggressive slaves lived in a society whose leaders did not control slave behavior as rigidly as did authorities in other slave systems. Several historians have argued that the relatively open slave society of late eighteenth-century Tidewater Virginia favored mobile, assimilated, and skilled slaves. Because white Virginians needed a great variety of labor skills and simultaneously desired workers who did not seem alien, they consciously

⁸ *Ibid.*, pp. 94-95, 102, 105, 125; William P. Palmer et al., eds., *Calendar of Virginia State Papers and Other Manuscripts, 1652-1859, Preserved in the Capitol at Richmond* (11 vols.; Richmond, 1879-93), IX, 134, 168-69.

granted or else carelessly allowed the assimilated and trained slaves greater privileges such as freedom of movement. The cases of Gabriel, Jupiter, and Solomon support this thesis. They show that the factors of mobility, skill, and assimilation could, and in at least this episode did, increase the chances of both individual and group slave defiance.⁹

Gabriel, Jupiter, and Solomon were definitely skilled and quite mobile men. Gabriel was a slave of high economic worth; adept at carpentry and blacksmithing, he also knew how to read and write. Jupiter was the possession of Nathaniel Wilkinson, Johnson's landlord and a neighbor of Thomas Henry Prosser, master of Gabriel. He too was a skilled slave, as indicated by his valuation at his 1800 trial. Gabriel's brother Solomon, also a slave of Prosser, was a blacksmith of great monetary worth.¹⁰ The three slaves knew the Richmond area well and had made extensive contacts even before they began to organize slaves. All of them would commit themselves to large-scale, collective resistance in Gabriel's Plot of 1800, Gabriel assuming the lead, Jupiter acting as an important means of connection between the main force of insurrectionists and an ally at the Capitol building, and Solomon initially providing full support but eventually aiding prosecution of the conspirators in order to gain judicial mercy.¹¹ No matter what degree of commitment other skilled slaves had to rebellion, these men were willing to take a limited risk in 1799 and to hazard all in 1800.

Johnson's social status and personal history conditioned his response to

⁹ Mullin, *Flight and Rebellion*, pp. 24, 88, 124-39, 157-58. See also Michael Mullin, ed., *American Negro Slavery: A Documentary History* (New York, 1976), pp. 14-17; Ira Berlin, "The Revolution in Black Life," in *The American Revolution: Explorations in the History of American Radicalism*, ed. Alfred F. Young (DeKalb, Ill., 1976), pp. 349-82; Peter Joseph Albert, "The Protean Institution: The Geography, Economy, and Ideology of Slavery in Post-Revolutionary Virginia" (Ph.D. diss., University of Maryland, 1976). The consideration here of questions concerning slave resistance has also been influenced by Clifford Geertz's "Thick Description: Toward an Interpretive Theory of Culture," in *The Interpretation of Cultures: Selected Essays* (New York, 1973), pp. 3-30; Rhys Isaac's "Ethnographic Method—An Action Approach," *Newberry Papers in Family and Community History* (Chicago, 1977), no. 77-4H; Sidney W. Mintz's and Richard Price's *An Anthropological Approach to the Afro-American Past: A Caribbean Perspective* (Philadelphia, 1976); Roy Simon Bryce-Laporte's "Slaves as Inmates, Slaves as Men," in *The Debate Over Slavery: Stanley Elkins and his Critics*, ed. Ann J. Lane (Urbana, 1971), pp. 269-92. See also 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), 214-18 and nn. 97-108, 224 and n. 128, for recent literature on slave resistance.

¹⁰ Gabriel's monetary value at the time of his death sentence was £150, or \$500, which was the current market price for a skilled or otherwise highly valued slave. Solomon's value in 1800 was \$500, while Jupiter's was \$333 (£100) (Henrico County O.B., 1799-1801, pp. 372, 381, 400-401; May 1802, valuation of a Goochland County slave carpenter at \$500, Virginia Auditor's Office, Item 153, Box 2, Vi; *Cal. of Va. State Papers*, IX, 141, 201-2; Governor Monroe's proclamation concerning Gabriel, *Norfolk Herald*, 16 Sept. 1800).

¹¹ Mullin, *Flight and Rebellion*, pp. 124-63; *Cal. of Va. State Papers*, IX, 141, 147-48, 161; Henrico County O.B., 1799-1801, p. 372.

the three assertive slaves. For ten years Johnson had been overseer of twenty adult slaves on prominent merchant Robert Turnbull's plantation, the largest in Dinwiddie County. He undoubtedly knew the usual techniques of dominating groups of human beings whom one regards as inferior. Johnson may have seen no particular reason why he should not apply these techniques to Gabriel. He was approximately thirty years old at the time of the fight with Gabriel, who was then about twenty-three. Johnson apparently perceived himself as a physical match for the six-foot-four man, even if Gabriel did get the best of him.¹² Moreover, he had none of the inhibitions of status that would have prevented a gentleman from fighting a slave.

Johnson's motivation for reacting sharply to the three slaves' misbehavior cannot be known, but it is possible to recreate the record of slave resistance with which he would have been most familiar and on which he would at least partially have based his response. Most whites had a general apprehension of the successful Santo Domingo slave uprisings of the 1790s, but Johnson's experience with slave rebelliousness was personal as well.

In 1792 Thomas Walpole, the father-in-law of Johnson's sister, died from a dose of poison. The Brunswick County justices tried two slaves in 1794 for poisoning Walpole and another victim, but gave them benefit of clergy and thirty-nine lashes rather than executing them. The evidence allowed no more than the conclusion that they had administered medicine with "no ill intent." Poisoning was the weapon Brunswick County's aggressive slaves used frequently against whites, so Johnson and his relatives had reason to conclude that the slaves in the Walpole case had gotten off too easily. In addition, a grisly murder had occurred in Dinwiddie County at almost exactly the same time. A slave had cut Thomas West's throat from ear to ear. These experiences would have reinforced Johnson's conviction, shared with many another white who suffered heightened fears of slave resistance in the 1790s, that slaves needed closer control.¹³

¹² Dinwiddie County Land Taxes, 1791-98, Vi; Dinwiddie County Personal Property Taxes, 1791-98, Vi; Henrico County O.B., 1799-1801, p. 95; Governor Monroe's proclamation, *Norfolk Herald*, 16 Sept. 1800; U. S., Census, Manuscript Schedules, Brunswick County, 1810, p. 8; 1820, p. 14A, National Archives (hereafter cited as DNA) (microfilm); Dinwiddie County O.B., 1789-91, pp. 277-79; Dr. Robert Walker Account Book, 1794-1830, pp. 148, 220, ViHi. Johnson was neither the first nor the last white man who mistakenly thought he could overawe a slave. See George P. Rawick, ed., *The American Slave: A Composite Autobiography* (19 vols.; Westport, Conn., 1972), VII, 142-43; and Frederick Douglass, *Life and Times of Frederick Douglass, Written by Himself* (New York, 1962), pp. 134-44. Johnson may have been more successful with the slaves he rented from Wilkinson. Not one of them was tried for either the 1799 incident or the 1800 plot.

¹³ Brunswick County O.B., 1792-95, pp. 241-42; 1806-8, p. 462; Brunswick County Will Book, 1778-95, pp. 468-69; 1804-12, pp. 170, 196; 1812-18, p. 245; 1824-28, p. 332, Vi; Brunswick County O.B., 1750-85, passim; 29 July 1794 trial, Virginia Auditor's Office, Item

Many whites accepted the assumption that slaves required firm control. Because Johnson, Prosser, and Wilkinson actually had to exercise that control, they faced a special problem. To what extent could they actually force their will on slaves who tested white power? Human beings of various kinds were in charge of the slave system. None of them could create the perfect slave society. In Johnson's case, his status as an outsider in Henrico County, as a person of middling rank, and as an overseer limited his ability to bring the power of white standards to bear against Gabriel, Jupiter, and Solomon. No matter what he wished to do, there was only so much he could do.

Johnson's position in Henrico County was insecure. Even though success in his earlier role as overseer of Turnbull's plantation may have helped him qualify to rent Nathaniel Wilkinson's land, both whites and blacks would have categorized him as just an overseer because of that career. Turnbull was related by marriage to Thomas Henry Prosser and may have recommended Johnson to Wilkinson, Prosser's neighbor. But elite kinship ties of his patrons would not have compensated for Johnson's being an outsider and an overseer. Johnson had arrived in Henrico only ten months before the fight with Gabriel and had signed only a five-year lease.¹⁴

Johnson could hardly have impressed the better sort with promise as a future planter. His career was characterized by mediocrity, minor deviancy, and insubordinate behavior. He had given the public some service. He sat on a Dinwiddie County jury with Robert Turnbull in 1790 and was later a county surveyor in his native Brunswick. In 1799 a Southside doctor suspected him of absconding from his medical debts. Johnson also exhibited a contentious, undeferential spirit when he engaged in numerous debt suits with such social betters in Henrico as Thomas Henry Prosser and landlord Wilkinson.¹⁵

153, Box 1, *Condemned Slaves, 1783-99*; Albert, "Protean Institution," pp. 235-36; Jordan, *White Over Black*, pp. 375-93; Robert McColley, *Slavery and Jeffersonian Virginia* (2d ed.; Urbana, 1973), pp. 49, 111-13; MacLeod, *Slavery, Race, and the American Revolution*, p. 154.

¹⁴ Robert Turnbull, petition, 31 Oct. 1791, Prince George County Legislative Petitions, 1779-1804, Vi; G. Brown Goode, *Virginia Cousins: A Study of the Ancestry and Posterity of John Goode of Whitby* (Bridgewater, Va., 1963), pp. 59, 61-62; Stella Pickett Hardy, *Colonial Families of the Southern States of America* (2d ed. rev.; Baltimore, 1958), p. 97; Henrico County Deed Book, 1798-1800, pp. 556-58, Vi; Brunswick County Will Book, 1804-12, pp. 170, 196; Brunswick County Land Taxes, 1807, Vi. (Johnson returned to Brunswick County immediately after his Henrico rental ended.)

¹⁵ Dr. Robert Walker Account Book, p. 148; Brunswick County Land Taxes, 1807-23; Brunswick County Will Book, 1818-24, pp. 9, 281; Brunswick County O.B., 1820-22, p. 458; Dinwiddie County O.B., 1789-91, pp. 277-79 (the only Dinwiddie case available); U.S., Census, Manuscript Schedules, Brunswick County, 1810, p. 8; 1820, p. 14 A; Gay Neale, *Brunswick County, Virginia, 1720-1975* (Lawrenceville, Va., 1975), p. 389; Henrico County O.B., 1796-1800, pp. 556-58; 1803-5, pp. 428, 455, 529, 532; 1805-7, pp. 216-17, 224, 349, 411, 440, 542;

At the same time that Johnson had few qualities which would impress Henrico County's gentlemen planters and was occasionally at odds with them, he particularly needed their official support. He was caught in the situation which many overseers and tenants experienced. His rental agreement with Wilkinson required that he deliver five hundred pounds of pork per year to his landlord and stipulated that at the end of the rental period he must return the same amount of livestock as he had received at the beginning of the period.¹⁶ The theft of one hog by a slave would consequently hurt him more than it would a wealthy planter. But Johnson's low standing would decrease his ability to appeal to the county justices for aid in the control of slaves who did steal his hogs. Johnson faced an especially severe dilemma since he also needed help to repress Solomon and Gabriel for threats and actions related to hogstealing.

It was not just a member of the middling sort like Johnson who had a limited ability to control slaves. One of Wilkinson's slaves was responsible for the 1799 hogstealing, and he and several other Wilkinson slaves joined the plot of 1800. Why Wilkinson lost control of so many slaves is unclear. His career before 1799 might have made him secure. Jupiter's master had served in various important Henrico County offices and had also enjoyed many terms as one of the county's representatives in the House of Delegates.¹⁷ One of his disadvantages by 1799, however, was old age. He had rented out almost all of his own home plantation to Johnson, an indication that he was scaling down his activities. Wilkinson was probably also in physical decline, although the evidence on this is contradictory. His contemporary signature is somewhat shaky, yet within two years of the hogstealing incident, his fellow justices held him responsible for fathering an illegitimate child, a judgment which he fought unsuccessfully in a higher court.¹⁸

1807-8, p. 34. Johnson's economic position never improved after his stay in Henrico. Even after inheriting his father's land in 1807, he held only 187 acres and died in 1822 with a small estate.

¹⁶ Henrico County Deed Book, 1796-1800, pp. 556-58.

¹⁷ *Cal. of Va. State Papers*, I, 265; III, 602; V, 606; VI, 138-39, 395; VII, 399-400; IX, 38, 84, 124; H. R. McIlwaine and Wilmer L. Hall, eds., *Journals of the House of Burgesses* (13 vols.; Richmond, 1905-15), 1770-1772, pp. 173, 195; John Marshall, *The Papers of John Marshall*, ed. Herbert A. Johnson et al. (Chapel Hill, 1974-), I, 120-21 and n. 2; Richard R. Beeman, *The Old Dominion and the New Nation, 1788-1801* (Lexington, Ky., 1972), pp. 88, 167; Harry M. Ward and Harold E. Greer, Jr., *Richmond during the Revolution, 1775-83* (Charlottesville, 1977), p. 58; Cynthia Miller Leonard, comp., *The General Assembly of Virginia, July 30, 1619-January 11, 1978: A Bicentennial Register of Members* (Richmond, 1978), pp. 123-96.

¹⁸ *Virginia Argus*, 22 Dec. 1807; Henrico County Deed Book, 1796-1800, pp. 556-58; Executed, Gabriel's Insurrection, receipt signed by Wilkinson for compensation for Sam and Jupiter, Virginia Auditor's Office, Item 153, Box 2, Condemned Slaves, 1800-1801; Henrico County O.B.,

The events of 1799 and 1800 indicate that Thomas Henry Prosser also had considerably less control over his slaves than his position in society appeared to give him. His prominence was assured. He owned a large plantation home outside Richmond, a fashionable house within the town, and the third largest number of adult slaves in Henrico County. Why, then, did he have so much trouble with his human property? One of his problems may have been that he was rather new and untested in his roles as public official, plantation owner, and slavemaster. He was only twenty-two years of age when he inherited his father's wealth in 1798. According to the unreliable report of James T. Callender, Prosser's youth contributed to his having behaved "with great barbarity to his slaves." What is certain, however, is that he had not mastered Gabriel and Solomon by 1799 and would be unable to prevent them and several other of his slaves from joining the insurrectionary plot of 1800.¹⁹

The contrast between Gabriel the slave and Thomas Henry Prosser the slave master is instructive. At twenty-three or twenty-four, Gabriel was almost exactly the same age as his new owner. Yet this literate, capable man slave had already reached the limit of status within his community, while a white man of the same age had quickly ascended to a position of wealth and had every possibility of attaining power as well. While there is no evidence that Gabriel resented his inequality, one wonders how he could have failed to do so. Indeed, an additional possibility should not be discounted. Were slaves such as Gabriel acutely aware of those factors which limited the ability of overseers or owners to control other people?²⁰

1799-1801, pp. 530-31; 1801-3, p. 494; 1803-5, pp. 277-78; Henrico County Will Book, 1802-9, pp. 388-90, Vi.

¹⁹ *Virginia Gazetteer and General Advertiser*, 9 Oct. 1798; Charles Copland, petition, 5 Dec. 1798, depositions Af-119 (T. H. Prosser born 5 Nov. 1776), Af-121, Richmond City Legislative Petitions, 1798-1803; Henrico County Land Taxes, 1798, Vi; Henrico County Personal Property Taxes, 1798, Vi; policy 809, 25 Aug. 1802, Mutual Assurance Society Policies, vol. 16, Vi; petitions, 20 Oct. 1779, 8 June 1782, 12 June 1784, Henrico County Legislative Petitions, Vi; Ward and Greer, *Richmond during the Revolution*, pp. 58, 94-96; James T. Callender to Thomas Jefferson, 13 Sept. 1800, Thomas Jefferson Papers, Library of Congress (microfilm); James M. Smith, *Freedom's Fetters: The Alien and Sedition Laws and American Civil Liberties* (Ithaca, 1956), pp. 334-58. Callender claimed William Rose, Henrico County jailer, as his source of information.

²⁰ Gabriel was "24 or 25 years of age" in 1800 (Governor Monroe's proclamation, *Norfolk Herald*, 16 Sept. 1800). We unfortunately have no evidence of how long Gabriel had been a Prosser slave. The presence of two of Gabriel's brothers on the same plantation with him indicates that he might have been with the Prossers long enough to have grown up with his new master of 1798. On slaves' ability to perceive white society's weaknesses in other circumstances, see Peter H. Wood, "'Taking Care of Business' in Revolutionary South Carolina: Republicanism and the Slave Society," in *The Southern Experience in the American Revolution*, ed. Jeffrey J. Crow and Larry E. Tise (Chapel Hill, 1978), pp. 268-93; and Eugene D. Genovese, *Roll, Jordan, Roll: The World the Slaves Made* (New York, 1974), p. 593, where he argues that the Gabriel,

Residence also significantly shaped the episode of 1799. It made a great deal of difference that the three slaves and Johnson came from where they did. Johnson grew up in Southside Virginia's Brunswick County and served as overseer of a nearby Dinwiddie County plantation during the 1790s.²¹ All the slaves lived in Henrico County, where the incident occurred. Thus, in the first stage of Gabriel's challenge, Henrico slaves faced a Southside white man. While too much significance should not be read into them, there were contrasts between the slave societies of Brunswick and Dinwiddie and that of Henrico County. The possibility that different conditions appreciably influenced the methods of slave control in the several counties should be considered. Slaves committed to resistance and whites determined to control such slaves opposed each other in different contexts in these counties. Stealing a hog and threatening or maiming a white man took on different meanings and elicited different responses in the separate regions.

Henrico whites had a greater problem with major slave crimes, such as large-scale stealing and offenses against the person, than did Southside whites. Between 1786 and 1799, Brunswick County justices convicted nearly 1.5 per 1,000 slaves of felonies, while Henrico County justices convicted about 16.1 per 1,000 slaves. The demography of the plantations in the two counties does not explain this contrast. The number of slaves tried in the courts of each county does not correlate with either the size, rate of growth, or ratio to adult males of the slave population in the rural areas of each county. The slave population of Henrico County outside Richmond was not growing rapidly, especially when compared with that of rural Brunswick County, or even rural Dinwiddie County outside Petersburg. Rapid population growth in Brunswick did not create either the motivation or opportunity for more slave criminality.²² Nor did the enslaved population in each area differ significantly in its statistical, and therefore potentially powerful, relationship to the number of able-bodied white males.²³

It was the nearby urban areas of Petersburg and Richmond which made all the difference. The geography, demography, and economy of Petersburg and of Brunswick and Dinwiddie counties may in fact have facilitated the prevention of slave crime. Petersburg did not appreciably interfere with

Nat Turner, and Denmark Vesey conspiracies "each matured in the wake of divisions or apparent divisions in the ruling classes."

²¹ See n. 12.

²² Crime rates are based on slave population only (1790 and 1800 averaged), since only slaves were actually tried by county officials. If computed on the basis of total population (1790 and 1800 averaged), the figures are: Brunswick, 0.8 per 1,000; Henrico, 8.3 per 1,000. See Table I for slave population.

²³ See Table III.

slave control in nearby counties. Dinwiddie County abutted upon Petersburg only at that county's northern end, while Brunswick County was south of Dinwiddie and only within Petersburg's economic orbit. Petersburg was a convenient gathering place solely for northern Dinwiddie slaves. Moreover its small size limited its utility for those slaves who wished to run away or act under the cover of anonymity. Finally, the town's slave population was not growing quickly. These factors tended to isolate Dinwiddie and Brunswick slaves in their rural environment.²⁴

Slaves isolated on or near their plantations in Brunswick and Dinwiddie had fewer chances than those in Henrico to commit major violations of the Old Dominion's slave code. That was at least partly because masters, overseers, and patrollers had less of a surveillance problem. The tobacco-based economy of the region necessitated more constant supervision of slaves than did the mixed-crop economy of Henrico.²⁵ Under these circumstances, slaves who wished to attack whites were more likely to resort to secrecy rather than to open defiance of the kind exhibited by Gabriel. It is no wonder, therefore, that Brunswick prosecutors had obtained such a relatively high number of convictions against slaves for poisoning, and not just "administering medicine" to, whites²⁶—higher per capita than in any other Virginia county except one between 1750 and 1785.

Demographic change and geographical circumstances did hamper slave control in the Richmond area. The relatively rapid growth of Richmond's slave population contrasted sharply with that of Petersburg. In the middle of Henrico County, Richmond made the prevention of slave crime in the area more difficult. Gabriel, Jupiter, and Solomon lived in adjacent plantations which were but six miles from the center of town and just off the main road between Richmond and northern points. Planters like Prosser

²⁴ For evidence of the isolation of the plantation for which Johnson had been overseer, see Dinwiddie County Land Taxes, 1798, p. 12; and Dinwiddie County Deed Book, 1833-37, pp. 126-27, vi.

²⁵ On the relationship among the type of crops grown, the need for skilled slaves, the assignment of tasks, and the nature of slave control, see Allan L. Kulikoff, "Tobacco and Slaves: Population, Economy, and Society in Eighteenth-Century Prince George's County, Maryland" (Ph.D. diss., Brandeis University, 1976), pp. 229-73; Albert, "Protean Institution," pp. 26-36; Mullin, *Flight and Rebellion*, pp. 34-38. The trial records of Gabriel's Plot, the details of Wilkinson's rental agreement with Johnson, and the items in Wilkinson's estate inventory make clear that corn, tobacco, and hay were regularly grown in the Prosser-Wilkinson-Johnson neighborhood (*Cal. of Va. State Papers*, IX, 159, 160, 165, 202; Henrico County Deed Book, 1796-1800, pp. 556-58; Henrico County Will Book, 1802-9, pp. 9, 388-90). See also Mosby Sheppard Account Book, 1794-1812, passim, Meadow Farm Museum. (I am indebted to Stuart Hallman, curator, for this reference.) The early development of the Southside counties is the subject of Michael L. Nicholls, "Origins of the Virginia Southside, 1703-1753: A Social and Economic Study" (Ph.D. diss., College of William and Mary, 1972).

²⁶ Brunswick County O.B., 1750-99.

and Wilkinson either had homes, did business, or held public office in Richmond, the developing capital of Virginia and Henrico's county seat. Slaves who accompanied their masters into Richmond gained knowledge of the town and enjoyed increased mobility.

Gabriel was able to visit Richmond every Sunday, and Jupiter traveled to the capital quite regularly as well. Indeed, it was the custom of area slaves to visit the city every Saturday night.²⁷ Moreover the mixed-crop economy of the James River region forced planters to rely on more skilled, less supervised, and more privileged slave labor. The difficulties these factors created for the prevention of slave crime in the bustling atmosphere of Richmond resulted in frequent complaints about epidemics of stealing, meetings of slaves in disorderly houses, and other congregations of unruly slaves.²⁸ The relatively high crime rate in Henrico County further testifies to the disruptive influence of Richmond.

The difference in success of sectarian evangelism in the two areas also indicates that different conditions affected slave control. The Methodists attracted many whites in the Southside, some members of Absalom Johnson's family among them. They and the Baptists also managed to reach numerous slaves there. More than one observer commented on the decline of violence among both white and black people as a result of widespread

²⁷ For the close proximity of Nathaniel Wilkinson's land—both that on which he lived and that which he rented to Johnson—to Prosser's home plantation, see Henrico County Processioners' Returns, 1800, pp. 78-82, Vi; policy 809, 25 Aug. 1802, Mutual Assurance Society Policies, vol. 16; Virginia Executive Journal, 1 Nov. 1799 to 7 Feb. 1801, p. 228, Vi; Henrico County Plat Book, no. 4, p. 68, Henrico County Courthouse; Dorothy Ripley, *The Extraordinary Conversion and Religious Experience* (New York, 1810), p. 83. (The location of Prosser's plantation is incorrectly described in Mullin, *Flight and Rebellion*, p. 200 n. 25.) See James Monroe, *Writings of James Monroe*, ed. S. M. Hamilton (7 vols.; New York, 1898-1903), III, 235; and *Cal. of Va. State Papers*, IX, 147, 148, 161 for indications of slave mobility and unsupervised activity. On Prosser's Richmond home and business, see Henrico County O.B., 1781-84, p. 66; Charles Copland, petition, 5 Dec. 1798, deposition Af-121, Richmond City Legislative Petitions, 1798-1803; T. H. Prosser to Thomas Ritchie, deed, 1819, Richmond City Hustings Deed Book, 1819-20, pp. 321-23, Vi. On Wilkinson, see John Marshall, *Papers of John Marshall*, I, 120-21 and n. 2; Beeman, *Old Dominion and the New Nation*, pp. 88, 167; Ward and Greer, *Richmond during the Revolution*, p. 58. Arna Bontemps, *Black Thunder* (Boston, 1968), paints a vivid picture of Gabriel's Henrico County and Richmond.

²⁸ Discussions of slaves' behavior in Richmond appear in Ward and Greer, *Richmond during the Revolution*, pp. 109-25; Mullin, *Flight and Rebellion*, pp. 136-39; Albert, "Protean Institution," pp. 46-47; Marianne Buroff Sheldon, "Black-White Relations in Richmond, Virginia, 1782-1820," *Journal of Southern History*, XLV (1979), 27-44; Robert M. Saunders, "Crime and Punishment in Early National America, Richmond, Virginia, 1784-1820," *Virginia Magazine of History and Biography*, LXXXVI (1978), 33-44; Ira Berlin, *Slaves Without Masters: The Free Negro in the Antebellum South* (New York, 1974), pp. 40-42. Direct evidence of slaves' and free blacks' unruly behavior appears in Richmond City Hustings Court O.B., 1797-1801, pp. 252, 273, 361, 371, 454. See also Henrico County O.B., 1805-7, pp. 321, 388, 492; 1807-8, pp. 10, 401; 1808-9, p. 402, for presentments against whites for leaving slaves unsupervised. On crops, see n. 25.

religious conversions. In Richmond and Henrico, on the other hand, the Methodists and Baptists attracted fewer converts, especially among whites, and even earned a reputation for stirring up slaves. The conspirators of 1800 knew about the evangelists' antislavery efforts and consequently excluded them from the list of intended victims. Testimony at the plotters' trials revealed that the preaching of Martin, another brother to Gabriel, had encouraged the rebels. Indeed, there were also accusations that one of the suspects, an enslaved Baptist preacher, avoided the gallows through the prejudicial intervention of a white Baptist who was a Henrico County justice. After the trials, Richmond authorities harassed and suppressed a Methodist circuit preacher who tried to hold services for mixed black and white congregations.²⁹

Even the relative independence of free blacks in rural Henrico County as compared to free blacks in the rural Southside counties of Brunswick and Dinwiddie reflects the difference between relatively open and closed systems of slave control. Free black men and women found themselves to be "slaves without masters" throughout the slave South. In the Henrico County of 1800 and 1810, however, most free blacks lived by themselves even if they worked for a white person, while most Southside free blacks lived on the property of white men as well as worked for them. These different living conditions were significant. Free blacks in Henrico County had a greater opportunity to develop a life of their own outside the reach of white control. Their greater concentration in rural Henrico than in Brunswick or Dinwiddie meant that local slaves more often could associate and compare themselves with fellow Afro-Americans who had escaped white social domination to some degree.³⁰

²⁹ 14 July 1776, Thomas Rankin Journal, p. 104, Garrett Evangelical Theological Seminary Library, Evanston, Ill.; 5 Sept. 1797, 20 Dec. 1799, "The Original Journal of Richard Whatcoat Bishop of the Methodist Episcopal Church, from August 13, 1797-May 30, 1800," *ibid.*; Alexander McCaine to Brother Robert Roberts, 29 Sept. 1802, Ezekiel Cooper Manuscripts, *ibid.*; Diary of William Spencer, 17 Dec. 1789-27 Jan. 1790, p. 31, ViHi; Catherine L. Knorr, *Marriage Bonds and Ministers' Returns of Brunswick County, Virginia: 1750-1810* (Pine Bluff, 1953), p. 100; Neale, *Brunswick County, Virginia*, pp. 94-103; Mullin, *Flight and Rebellion*, pp. 138-39, 148-49, 158; Harold H. Hughes, "History of Methodism in Richmond" (typescript), pp. 5-7, 9, ViHi; Methodist Episcopal Church, *Minutes, Taken at the Several Conferences* (Philadelphia, 1796-1800); William W. Bennett, *Memorials of Methodism in Virginia* (Richmond, 1870), pp. 273, 277, 281, 299, 300, 337, 344, 345, 356, 367, 368, 372-75, 379, 390, 409; Boar's Head Swamp Church (Antioch Church), Henrico County Minute Book, 1787, 1791-1828, Virginia Baptist Historical Society, Richmond; *Virginia Herald*, 23 Sept. 1800; W. Harrison Daniel, "Virginia Baptists and the Negro in the Early Republic," *VMHB*, LXXX (1972), 65-69; James T. Callender to Thomas Jefferson, 13 Sept. 1800, Thomas Jefferson Papers; Lee W. Formwalt, "An English Immigrant Views American Society: Benjamin Henry Latrobe's Virginia Years, 1796-1798," *VMHB*, LXXXV (1977), 404; Reuben E. Alley, *A History of Baptists in Virginia* (Richmond, 1974), p. 127.

³⁰ See Table II; Henrico, Brunswick, and Dinwiddie County Land Taxes, 1800; U.S., Census,

Another important factor in the episode was the nature of the crime which precipitated the other events. What did such hogstealing mean to enslaved Virginians? Was the hog so important to the three slaves in this incident that all of them risked punishment, one by stealing it, another by threatening and a third by attacking a white man who tried to stop the theft? Hogs did have dietary and social value within the slave community. Hogstealing involved a combination of strength and skill; success required dexterous pursuit, handling, and killing of the animal. While the immediate payoff was a good meal, the social significance—for the slaves at least—went beyond the obvious dietary function of hogs. Hogstealing could mean survival or an improved diet for a few slaves; it provided the opportunity for many others to share in feasts. Such feasts could serve as means of maintaining fellowship. In Henrico County they also became occasions for planning collective resistance against slavery.³¹

Virginia slaves faced only a moderate danger of suffering punishment for hogstealing. Slaveowners did consistently define hogstealing as a crime, deeming the first offense only a misdemeanor punishable with thirty-nine lashes and establishing stiffer penalties, even capital punishment, for repeated offenses.³² Statutes do not reveal exactly how much of a risk hogstealing presented to slaves, however. For instance, no record survives of an eighteenth-century Virginia court having sentenced a slave to death for repeated hogstealing. Enforcement may never have reached its legal limit. In fact, the judicial response to slaves' hogstealing, which is the only white response one can measure, fluctuated considerably over time and space. In over fifty Virginia counties, only 9 percent of the 890 slaves convicted of crimes against property between 1706 and 1785 had stolen hogs.³³ White

Manuscript Schedules, Henrico, Brunswick, and Dinwiddie counties, 1810, DNA (microfilm); Henrico County O.B., 1799-1801, pp. 156, 474; 1801-3, pp. 203-5. The lives and economic activities of three men whom the Sheppard family emancipated between 1799 and 1810—including Pharoah, a skilled slave who won his freedom by informing on Gabriel's Plot—illuminate the circumstances of rural free blacks in Henrico County (Henrico County O.B., 1799-1801, p. 80; Pharoah Sheppard petition, 14 Dec. 1810, Richmond City Legislative Petitions, 1810-12; Mosby Sheppard Account Book, 1794-1812, pp. 21, 32, 52, 60, 70; Pharoah Sheppard Financial Records, 1804-8, Box B, Meadow Farm Museum; Mosby Sheppard Small Account Book, 1802, Meadow Farm Museum. See also Berlin, *Slaves Without Masters*).

³¹ Genovese, *Roll, Jordan, Roll*, pp. 599-604; Robert W. Fogel, "Cliometrics and Culture: Some Recent Developments in the Historiography of Slavery," *Journal of Social History*, XI (1977), 34-37; William Waller Hening, ed., *Statutes at Large, Being a Collection of All the Laws of Virginia* (13 vols.; Richmond, Philadelphia, and New York, 1819-23), II, 481-82; *Commonwealth v. Isham*, in "Negro Insurrection," Virginia Executive Papers, Sept.-Oct. 1800, Box 114; *Cal. of Va. State Papers*, IX, 141, 142, 149.

³² Hening, *Statutes*, II, 129, 440-41; III, 179, 276-79; VI, 121-24.

³³ Based on analysis of all obtainable county and town records of slave trials in Virginia, 1706-85—nearly 2,000 cases. Crimes against property include all kinds of theft as well as arson and the reception of stolen goods.

planters may have punished hogstealing privately; they clearly did not consider it a major slave crime worthy of regular public prosecution. Moreover, since slaves rarely stood trial for taking any kind of property from their own masters, only one slave faced prosecution between 1706 and 1785 for stealing a hog from his owner.³⁴ Even when justices did hear trials of slaves for stealing hogs from other than their own masters, clerks recorded names of only half of the victims, as opposed to three-quarters of the names of other victims of property crimes and over four-fifths of victims of crimes against the person.

Slaves in the Old Dominion had ample opportunities for hogstealing. Almost all Virginia planters and farmers in the late eighteenth century owned hogs. The average number held by those whose estates went through probate was as high as twenty-seven in 1774 and nineteen in 1799.³⁵ The value of these hogs suggests one reason why whites might rely on private punishment rather than time-consuming court action.³⁶ In 1774 the price of hogs fluctuated between five and twelve shillings per outhog and between sixteen and twenty-three shillings for fattened hogs; the comparable figures for 1799 were approximately twelve to nineteen shillings for outhogs and twenty-two to thirty-two for fattened hogs. Horsestealing assumed public importance because mares sold for ten pounds each, but hogstealing was ordinarily a less significant matter.³⁷

Whatever the reasons why justices heard so few hogstealing cases, the relatively mild punishment and great opportunity would not make hogstealing attractive to all slaves. Only the more aggressive Afro-Virginians would engage in this form of resistance to, or violation of, dominant white norms and rules. Hogstealers had to overcome the force of constant planter

³⁴ 21 May 1782, Pittsylvania County O.B., 1777-83, p. 403. Even though three of Landon Carter's slaves were convicted of hogstealing between 1756 and 1758, Carter ignored these judicial actions in his detailed *Diary of Colonel Landon Carter of Sabine Hall, 1752-1778*, ed. Jack P. Greene (2 vols.; Charlottesville, 1965). See also S. M. Hamilton, ed., *Letters to Washington and Accompanying Papers* (5 vols.; Boston, 1898-1902), IV, 200; Carter Berkeley to Charles Carter, 19 Oct. 1802, ViHi.

³⁵ Alice Hanson Jones, *American Colonial Wealth: Documents and Methods* (3 vols.; New York, 1977), II, 1295-1402; III, 2040, 2069-71; Carville V. Earle, *The Evolution of a Tidewater Settlement System: All Hallows Parish, Maryland, 1650-1783* (Chicago, 1975), pp. 122, 124-25; Lewis C. Gray, *History of Agriculture in the Southern States to 1860* (1933; reprint ed.; 2 vols.; Gloucester, Mass., 1958), I, 140, 144, 206, 209-10; II, 918, 1042; Henrico County Will Book, 1787-1802, pp. 366-80, 424-50. An 1807 inventory of Wilkinson's estate listed eight sows, fifteen shoats, twenty-six pigs, six swamp hogs, thirty fattened hogs, and eight stock hogs (*ibid.*, 1802-9, pp. 388-90).

³⁶ Based on 1706-85 analysis. See especially Brunswick County O.B., 1792-95, p. 204; Henrico County O.B., 1789-91, pp. 136-37; 1791-94, p. 7; 1799-1801, p. 94. Dinwiddie County order books have survived only for 1789-91. A good example of the legal difficulties which could arise is in Essex County O.B., 1703-8, p. 313.

³⁷ See n. 35.

and preacher admonitions against stealing.³⁸ They also had to consider what to do if caught—whether to flee, submit, or fight. These choices would have to be made according to the specific circumstances and to the threat of discovery and sanctions involved.

While hogstealing did mean something to Virginia slaves and may even have been relatively easy to accomplish, there was no necessary causal relationship between hogstealing and the kind of threats and assaults involved in the 1799 episode. In fact, the conjunction of violence and hogstealing in this instance is unique. While there may have been some unrecorded cases of similar actions, no documented case has survived in Virginia. The hogstealing was an act of resistance to slave control primarily because of the context in which it occurred. Jupiter's theft of the hog and the willingness of Gabriel and Solomon to stand up to Johnson physically or verbally indicate that they knew what they were doing and were willing to face whatever Johnson did to try to correct them. Since Johnson could not adequately respond to such determination, he called on the support of public power.

The differing personal history, status, and assumptions of each man became apparent when the conflict assumed public form in the context of Henrico County's court. Gabriel, the one slave tried for a capital felony, faced a particularly impressive institution, the court of oyer and terminer.³⁹ Legislation of 1692 authorized Virginia county officials to convene as a court of hearing and determination, with plenary powers to convict slave defendants and authority to execute slaves found guilty of capital crimes, subject only to the governor's pardoning prerogative. Even after the creation of the district court system for certain criminal cases, county justices held on to the extraordinary power of life and death over slaves found guilty of capital crimes. Slaves could rely on only two substantial means of protection in these courts. The first was a court-appointed, poorly paid, but often able defense lawyer. The second was the benefit of clergy available to slaves in

³⁸ Genovese, *Roll, Jordan, Roll*, pp. 599-609; Thomas Bacon, *Sermons Addressed to Masters and Servants, and Published in the Year 1743* (Winchester, Va., 1813), pp. 104, 107-9, 161-62, 199, 215; 9 July 1775, 19 Sept. 1776, Thomas Rankin Journal, pp. 70, 114; Jupiter Hammon, *Address to the Negroes of the State of New York* (New York, 1787), p. 9. See also Luther P. Jackson, "Religious Instruction of Negroes, 1830-1860, with Special Reference to South Carolina," *Journal of Negro History*, XV (1930), 72-114; Herbert Aptheker, *American Negro Slave Revolts* (New York, 1969), pp. 56-58; John W. Blassingame, *The Slave Community: Plantation Life in the Antebellum South* (2d ed.; New York, 1979), pp. 84-89.

³⁹ Thad W. Tate, *The Negro in Eighteenth-Century Williamsburg* (Charlottesville, 1965), pp. 168-71; Hening, *Statutes*, III, 102-3, 269-70; IV, 126-27, 326-27; VI, 105-7; VIII, 137-39; XII, 343; XIII, 30-32; Shepherd, *Statutes at Large*, I, 122-27; A. G. Roeber, *Faithful Magistrates and Republican Lawyers: Creators of Virginia's Legal Culture, 1680-1810* (Chapel Hill, 1981), pp. 42-43, 93.

specified capital cases since at least 1732. Very few other colonies or states made slaves eligible for this variety of suspended sentence. The defenders of slave property, and sometimes even the slaves themselves, had something to hope for when facing the awesome strength of the county courts of oyer and terminer. By the same token, the capacity to grant suspended sentences gave county justices great discretion, sometimes leaving slaves helpless before judges' mercy.⁴⁰

Whether in regular session or in oyer and terminer, justices in the county courts used their powers to publicly verify hegemonic norms or the rules by which whites meant to maintain their control over blacks.⁴¹ Courtroom ceremony was one of the most impressive public displays of governmental power in early America. It involved important, sometimes life-and-death, issues, especially in the trials of slaves. Justices had their ways of utilizing the unique opportunity of court sessions to demonstrate authority. Symbols were instrumental; body language played its part as well. Even the use of force would buttress the authority of the court. Sheriffs or jailors often administered corporal punishment to slaves immediately after sentencing and in the presence of the court. Language also became an extension of the justices' power. It was not just tradition which led many a justice to condemn a slave to "hang until he be dead, dead, dead." In addition the sartorial splendor of many judges in sessions contrasted markedly with the slaves' osnaburgs or work clothes. The setting itself confronted slaves with the high social position of the men who would judge them. Courthouses were alien, European rooms which contrasted with the familiar Afro-American quarters in which most slaves lived. As did white defendants, slave defendants appeared before the bar and had to look up at the judges.⁴²

The actual prestige of these judges did not necessarily match their claim to power, however. The men who served as oyer and terminer justices were always also part of the regular county court, an institution which had irretrievably lost some of its most important attributes, especially civil and

⁴⁰ Landon C. Bell, "Benefit of Clergy" (typescript), pp. 3-6, Vi; Roeber, *Faithful Magistrates*, pp. 203-30; Hening, *Statutes*, IV, 326-27; XIII, 30-32; Shepherd, *Statutes at Large*, I, 126.

⁴¹ Genovese, *Roll, Jordan, Roll*, pp. 25-49; Douglas Hay, "Property, Authority, and the Criminal Law," in Hay et al., *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (New York, 1975), pp. 17-63; Roeber, *Faithful Magistrates*, pp. 73-95; Edmund Jenings to Board of Trade, 24 Apr. 1710, Colonial Office Group 5, vol. 1316, fols. 141-42, Public Record Office (Virginia Colonial Records Project [microfilm]).

⁴² Henrico County O.B., 1803-5, p. 473; Roeber, *Faithful Magistrates*, pp. 73-95; Rhys Isaac, "Dramatizing the Ideology of Revolution: Popular Mobilization in Virginia, 1774 to 1776," *WMQ*, 3d ser., XXXIII (1976), 357-85; example of "dead, dead, dead" in Brunswick County O.B., 1792-95, p. 150.

criminal jurisdiction over several kinds of cases, to the new system of state courts. The most capable legal and judicial talent in any county now gravitated towards the higher courts, leaving less accomplished men to oversee the county judiciary. These second-rate, but by no means incompetent, judges were the ones who faced accused slaves.⁴³

Public trials were a form of intercultural contact between certain Afro-Americans, such as Gabriel, and particular Euro-Americans, such as the Henrico justices. Written rules and laws could not determine the results of court action.⁴⁴ Instead, it was the interaction between slaves committed to resistance and authorities determined, but not always able, to control such slaves that governed the impact of slave trials. While whites used court action to establish their definitions of slave deviancy, slaves learned white expectations from these same public statements. Slaves could thereby assess the actual, as opposed to claimed, power of their masters and white authorities. Public court ceremony also gave slaves an opportunity to oppose the articulation of white authority with expression of their own values. The slaves' power to counter white judicial power was limited but real.

Slaves found diverse ways to play an active part in courtroom ceremonies in Virginia. While some may have genuinely bowed to the courts' powers, others may have manipulated courts with feigned submissiveness. Some slaves expressed open defiance. Tales of the eloquence or dignified silence of condemned slaves in the courtrooms of the Old Dominion bear witness to the manner in which slaves made their points in judicial forums. Unlike Nat Turner, Gabriel remained almost completely silent when tried and hanged for conspiracy in 1800. More than one white leader remarked on the impressive determination expressed by Gabriel's silence and by the dignity with which Gabriel's fellow conspirators stood trial and died.⁴⁵ An unidentified slave in a later conspiracy trial made a most telling courtroom statement. To his judges he said,

⁴³ Roeber, *Faithful Magistrates*, pp. 203-30.

⁴⁴ Frederick Barth, "Introduction," in *Ethnic Groups and Boundaries: The Social Organization of Culture Difference*, ed. Barth (Boston, 1969), pp. 13, 36-37; Jordan, *White Over Black*, pp. 110-22; Mintz and Price, *Anthropological Approach*, p. 3.

⁴⁵ Agents of Governor Monroe reported that Gabriel "appeared to make no confession worth reporting" (*Cal. of Va. State Papers*, IX, 156; Mullin, *Flight and Rebellion*, pp. 201-2 nn. 38-39). Governor Monroe found him "resolved to say but little on the subject of the conspiracy" (Monroe to Thomas Newton, 5 Oct. 1800, *Writings of James Monroe*, III, 213-14). Hostile historians claimed Gabriel was cowardly at his execution, an accusation nowhere corroborated in contemporary accounts (Robert R. Howison, *A History of Virginia from its Discovery and Settlement by Europeans to the Present Time* [2 vols.; Philadelphia and Richmond, 1846-48], II, 393; Henry Irving Tragle, ed., *The Southampton Slave Revolt of 1831: A Compilation of Source Material* [Amherst, 1971], pp. 127, 306). Aptheker, *Slave Revolts*, pp. 222-23.

I have nothing more to offer than what General Washington would have had to offer, had he been taken by the British and put to trial by them. I have adventured my life in endeavouring to obtain the liberty of my countrymen, and am a willing sacrifice in their cause: and I beg, as a favour, that I may be immediately led to execution. I know that you have pre-determined to shed my blood, why then all this mockery of a trial? ⁴⁶

Even the courtroom testimony black witnesses gave against accused slaves could inform whites of the depth of slave opposition to white values. An enslaved witness recalled that Glasgow, who faced trial for insurrection in Hanover County in 1802, had said not only that masters were "very bad to us, that is some of them," but also declared that "I have rode for my freedom, and I have never got it, but damn it I will either die or be free." ⁴⁷ Arthur, a slave who faced trial for the same insurrection and belonged to the same master who had owned a slave hung for his part in the Gabriel Plot, defiantly asserted that "he had once gotten clear of the gallows, but was determined to loose his life that way sooner than not accomplish his object" of revolt. There were some slaves whom the courts' life-and-death powers simply could not intimidate. In the fall of 1801, a slave from Halifax County, Virginia, urged a fellow slave to join an insurrection. As Bob testified at Sancho's trial in 1802, "when reminded of the fate of those who rose at Richmond [Sancho] said he reckoned the work could be done." ⁴⁸

On 7 October 1799, however, the justices of Henrico thought they were in control of the situation. They did not fully appreciate that they were confronting three slaves who were committed to resistance against aspects of slave control. Instead, the judges treated all of them as ordinary criminal defendants and clearly failed to intimidate them. In the first place, they heard Jupiter's case before a regular session since hogstealing was only a misdemeanor. They regarded hogstealing laws as clear and the evidence concerning Jupiter's theft of a hog as convincing. Perhaps the justices also wished to make an example of Jupiter. As a result, Jupiter received a guilty verdict and suffered the dreaded thirty-nine lashes immediately in the presence of the court. ⁴⁹ The members of the judiciary thereby made the point that if brought directly to their attention, hogstealing would be

⁴⁶ Robert Sutcliff, *Travels in Some Parts of North America, in the Years 1804, 1805, & 1806* (York, 1811), p. 50.

⁴⁷ Trial of Glasgow, property of Benjamin Pollard, 5 May 1802 (transcript), Virginia Auditor's Office, Item 153, Box 2.

⁴⁸ *Cal. of Va. State Papers*, IX, 294, 301.

⁴⁹ Henrico County O.B., 1799-1801, p. 94.

punished. The inconsistent enforcement of hogstealing statutes in Virginia indicates that Jupiter might never have had to worry about a trial for a second offense of hogstealing.

In the next stage of the public dialogue, Absalom Johnson laid before the court a complaint against Solomon "under an apprehension that the said Solomon will destroy [*sic*] him or his property by Fire or other ways." Arson in Johnson's native Brunswick County illuminates his making this accusation. Between 1786 and 1799, Brunswick County justices heard only one case of arson by a slave. In 1793, the woman concerned received a guilty verdict, was condemned to hang, but apparently was pardoned. It is interesting, however, that this arson trial occurred only four months before the trial of the slave who had poisoned one of Johnson's relatives. This crime stood as a reminder to Johnson and other Southside residents of the danger of arson by slaves as well.⁵⁰

The Henrico bench did not counter Solomon's threat. Instead they dismissed Johnson's complaint and discharged Solomon without requiring Thomas Henry Prosser, his master, to post a bond for his slave's good behavior. It is easy to conclude that Solomon had gotten away with threatening Johnson. It was Solomon who would simply but most forcefully pledge himself to the 1800 plot by saying "my name is Solomon, and [I] am good, what is of me, for fighting." Since the law did not make possible a charge of criminal conspiracy against Solomon, who had clearly been involved in the fracas, Johnson had had to file the complaint he did. Johnson had suffered another defeat, this time at the hands of Henrico's white elite and before the same public audience as had already witnessed his maimed ear—the mark of his earlier, private defeat by Gabriel.⁵¹

The effect of this was to undercut the socially inferior Johnson. The members of the bench had given a message to the local slave community that they would apply a somewhat flexible standard of slave deviancy to mere threatening words. They either ignored or misunderstood the cruel paradox which permeated and corrupted slave societies. The more some whites tried to conform to genuine principles of justice, moderation, fairness, and decency in controlling slaves committed to resistance, the less able they would be to control them. Worst of all, the failure of leniency would make it more probable that frustrated and frightened masters would fall back

⁵⁰ *Ibid.*; Brunswick County O.B., 1792-95, pp. 150, 204, 241-42. During the same period four Henrico slaves stood trial for three arson episodes. None was found guilty (Henrico County O.B., 1784-87, pp. 328, 352-54; 1791-94, pp. 747-48).

⁵¹ Henrico County O.B., 1799-1801, p. 94; Mullin, *Flight and Rebellion*, p. 145.

on particularly harsh repression. The conditions of slavery would thereby grow worse, not better. The general white commitment to slavery doomed any wish of some whites to treat slaves with more justice in the courts.

The greatest test of the justices' willingness to answer the challenge presented by Gabriel, Jupiter, and Solomon was their handling of Gabriel's case. It was he who stood trial before the court of oyer and terminer for an attack on a white person—a capital offense—so it was he about whom the justices had to make the clearest and most effective points. Yet the Henrico authorities tempered their punishment of Gabriel just as they had avoided correcting Solomon. While the oyer and terminer justices found Gabriel guilty of the maiming charge, they thought he was “entitled to the benefit of Clergy.” Legislation prescribed the procedure which the justices were supposed to follow. Slaves convicted of clergyable offenses were to “be burnt in the hand in open court, by the jailor, and suffer such other corporal punishment, as the court shall think fit to inflict.” The justices accordingly ordered Gabriel to be branded but then merely remanded him to jail without further physical punishment. The justices conveyed an image of leniency when they chose not to avail themselves of the option to inflict corporal punishment on a slave whom they had convicted of corporally maiming a white person.⁵²

Some speculation about motivation is in order. Had Gabriel's legal counsel, Charles Copland, been highly effective, or when the justices refused to use official violence against Gabriel, were they instead employing the psychological pressure espoused by the new penology of the time in the effort to discipline and punish Gabriel?⁵³ Prosser was willing to outdo the justices. Technically, Gabriel had to be remanded to jail since Johnson's demand that he be bound to his good behavior remained outstanding. Instead of posting the bond immediately, Prosser simply left Gabriel in jail from 7 October until 5 November, when he finally put up bond for \$1,000.⁵⁴ One month in any jail was a long time. The Henrico County jail, known as Rose's Brig, offered no more comfort to dangerous criminals than any other

⁵² Hening, *Statutes*, IV, 326-27; XIII, 30-32; Henrico County O.B., 1799-1801, p. 95.

⁵³ Michael Foucault, *Discipline and Punish: The Birth of the Prison* (New York, 1977), pp. 3-131; Michael Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850* (New York, 1978); David J. Rothman, *Discovery of the Asylum: Social Order and Disorder in the New Republic* (Boston, 1971), pp. 3-4, 14-19, 45-52.

⁵⁴ Henrico County O.B., 1799-1801, pp. 95, 102, 105, 125. John Randolph of Roanoke would later consign a formerly trusted house slave to jail for three months. This technique made Randolph's slave conform (Robert Dawidoff, *The Education of John Randolph* [New York, 1979], p. 53).

Virginia jail of the time.⁵⁵ Under this pressure Gabriel might bend and begin to conform.

Gabriel, Jupiter, and Solomon did anything but conform in response to their masters, Johnson, or the Henrico authorities. Consistently harsh repression may not have been any more effective; inaction certainly would not have been. Even the apparently merciful action of the Henrico County justices had great potential to place slaves committed to resistance in an intolerable position. The grant of benefit of clergy to Gabriel had a threatening dimension. The brand on Gabriel's left hand made him a marked man. Such an award gave this aggressive slave the dubious benefit of being guaranteed the death sentence should he ever again stand trial for any act of strong resistance—that is, any capital crime as defined by Virginia's slave code. In this case, the judiciary ironically gave to a literate slave a benefit that other states' judges conferred only on free people, yet Gabriel merited such consideration in Virginia only because the law classified him as valuable property which needed such protection. The bond for keeping the peace towards Absalom Johnson contained an additional insult to the activist, intelligent, literate, and powerful Gabriel. He was required to behave well, but since he was a slave, he was not allowed to promise on his own honor that he would. Neither Gabriel's free choice nor his interest in not forfeiting the bond would have any bearing on the process.⁵⁶

Whatever their intentions, the justices unwittingly made the prosecution of Gabriel, Jupiter, and Solomon into a form of provocation instead of a moral lesson.⁵⁷ The provocation could easily have led only to future confrontations between these slaves and white authorities. The commitment to resistance shared by Gabriel, Jupiter, and Solomon may simply have

⁵⁵ The jail was a two-story structure with separate compartments for criminals perceived as dangerous and for debtors or prisoners like Callender. The jailer complained of problems of sanitation while Callender, who was confined in the second story, attributed an illness to the "stink" of the place. Henrico County replaced this jail, which had a capacity for more than thirty inmates, in 1819 and 1820 (James T. Callender to Thomas Jefferson, 14 Aug., 11 Oct., 27 Oct. 1800, Thomas Jefferson Papers; Samuel Mordecai, *Virginia, Especially Richmond, In By-Gone Days* [2d ed.; Richmond, 1860], pp. 166-67; Henrico County O.B., 1787-89, p. 586; 1789-91, p. 120; 1791-94, p. 74; 1794-96, p. 72; 1799-1801, pp. 125, 334, 427; Henrico County Minute Book, 1816-19, pp. 85, 149, Vi; *Cal. of Va. State Papers*, III, 504; William Rose to Governor Tyler, 31 Aug. 1810, Virginia Executive Papers, Letters Received; U.S., Census, Manuscript Schedules, 1810, Richmond City, p. 16; Richmond City Personal Property Taxes, 1799, p. 24; 1810, p. 20). For more on contemporary jail conditions, see Collier C. Harris, "For the Administration of Justice": *A Manual for the Publick Gaol* (Williamsburg, 1971); Colonial Williamsburg, Inc., *Publick Gaol Manual* (Williamsburg, n.d.). (I am indebted to Nancy C. Crump and Betty C. Leviner for bringing the latter two volumes to my attention.)

⁵⁶ Henrico County O.B., 1799-1801, pp. 102, 105.

⁵⁷ On the use of criminal prosecution to teach a moral lesson, see Ronald A. Bosco, "Lectures at the Pillory: The Early American Execution Sermon," *American Quarterly*, XXX (1978), 156-76; Roeber, *Faithful Magistrates*, pp. 73-95, 137-45.

been the common cause of both the 1799 incident and the 1800 plot, without the first influencing the second. Either episode could have occurred without the other. However, planning for the insurrection of 1800 began within eight months of Gabriel's release from jail; Gabriel, Jupiter, and Solomon were involved in that planning and General Gabriel became the plot's leader by early August of 1800. The slave who alerted whites to the impending uprising reported that the conspirators intended first to "kill the neighbors," including "Thomas H. Prosser, and Mr. Johnson." Absalom Johnson was the only Johnson who lived near Thomas Henry Prosser.⁵⁸ Nor is it impossible that Gabriel's challenge to white society would have to enter a new stage. The limited success of, and the nature of the white response to, individual resistance would encourage collective resistance.⁵⁹

These speculations aside, the 1799 incident is primarily important for revealing the power of slave resistance to specific aspects of their bondage. The members of the Henrico County bench misinterpreted the conflict in which they participated with Gabriel, Jupiter, and Solomon. They did so because they treated each one as just another slave criminal. However, they could have learned something about most slaves from their encounter with extraordinary slaves. Gabriel, for instance, was indeed the "Main Spring and Chief Mover"⁶⁰ in the private and public confrontation of 1799, as he would later be in the insurrectionary conspiracy of 1800. But his behavior also reflected a general pattern of interaction between slave and master, and between slaves and white society.

The circumstances of Gabriel's challenge show how much weaker slave courts and white society were, and how much stronger were slaves' power and community, than most white leaders of the time thought they were. White people and institutions successfully upheld slavery, to be sure, but they failed to control slaves like Gabriel, Jupiter, and Solomon. They were also open to attacks from regular slaves as well as aggressive slaves such as Gabriel. All kinds of slave behavior which whites defined as criminal indicated slaves' knowledge of and willingness to test white masters' limitations. Indeed, the ability of slaves to influence court actions showed that they could even participate in the process of defining slave deviancy. Neither

⁵⁸ Mullin, *Flight and Rebellion*, pp. 140-53; *Cal. of Va. State Papers*, IX, 134, 168-69.

⁵⁹ Compare the Whigs' justification of their progressing from limited resistance to specific wrongs toward revolution against illegitimate government (Pauline Maier, *From Resistance to Revolution: Colonial Radicals and the Development of American Opposition to Britain, 1765-1776* [New York, 1972], esp. pp. xii, 28).

⁶⁰ The label applied to Gabriel by a white magistrate in 1800 (Certificate of the examining magistrates to Governor Monroe, 8 Sept. 1800, Virginia Executive Papers; Mullin, *Flight and Rebellion*, p. 147).

Gabriel nor any other slave ever controlled the process. General Gabriel did not win his war in 1799, but he and his allies did win a limited, albeit unacknowledged, battle victory. If other slaves could not master the masters, they could at least challenge the mastery of the masters on their own ground. Some masters were not ready for that challenge.

TABLE I

The size, percentage of total population, percentage change, and growth rate of the slave population in selected areas of Virginia, 1790 to 1800.

	SLAVE POPULATION 1790	SLAVE POPULATION AS % OF ALL POPULATION	SLAVE POPULATION 1800	SLAVE POPULATION AS % OF ALL POPULATION	% CHANGE SLAVE POPULATION 1790-1800	GROWTH RATE 1790-1800
HENRICO	4340	52.68	4608	50.37	+ 6.20	+0.6
RICHMOND	1479	39.32	2293	39.97	+ 55.04	+ 4.5
COMBINED	5819	48.49	6901	46.36	+ 18.59	+ 1.7
DINWIDDIE	6069	54.65	6866	57.93	+ 13.13	+ 1.2
PETERSBURG	1265	44.73	1487	42.23	+ 17.55	+ 1.6
COMBINED	7334	52.63	8353	54.33	+ 13.89	+ 1.3
BRUNSWICK	6776	52.83	9422	57.67	+ 39.05	+ 3.4

SOURCE: U.S., Census Office, 9th Census, 1870, *The Statistics of the Population of the United States*; Volume 1: *Population and Social Statistics* (Washington, D.C., 1872), 68-70, 279; U.S., Census Office, 1st Census, 1790, *Heads of Families at the First Census of the United States Taken in the Year 1790 . . . Virginia* (Washington, D.C., 1908), pp. 9-10; U.S., Census Office, 2d Census, 1800, *Return of the Whole Number of Persons Within the Several Districts of the United States . . . Second Census* (Washington, D.C., 1801), unpagged.

TABLE II

The size, percentage of total population, percentage change, and growth rate of the free black population in selected areas of Virginia, 1790 to 1800.

	FREE BLACK POPULATION 1790	FREE BLACK POP. AS % OF ALL POPULATION	FREE BLACK POPULATION 1800	FREE BLACK POP. AS % OF ALL POPULATION	FREE BLACK POP. AS % OF ALL POPULATION	FREE BLACK POP. % CHANGE 1790-1800	FREE BLACK POP. GROWTH RATE 1790-1800
HENRICO	316	3.8	542	5.9		+71.5	+5.5
RICHMOND CITY	265	7.0	607	10.6		+129.0	+8.6
COMBINED	581	4.8	1149	7.7		+97.8	+7.1
DINWIDDIE	251	2.0	246	2.0		-2.0	—
PETERSBURG	310	10.9	428	12.2		+38.1	+3.3
COMBINED	561	4.0	674	4.4		+20.1	+1.9
BRUNSWICK	132	1.0	270	1.0		+104.5	+7.4

SOURCE: see Table I

TABLE III

Size of slave labor force and number of slaveholders (16 years of age and over) on Brunswick, Dinwiddie, and Henrico plantations, 1799; number of white males (16 years of age and over) in Brunswick, Dinwiddie, and Henrico counties, 1799.

NO. SLAVES OWNED	BRUNSWICK		DINWIDDIE (OUTSIDE PETERSBURG)		HENRICO (OUTSIDE RICHMOND)	
	NO. SLAVE-HOLDERS	% OF HOLDERS	NO. SLAVE-HOLDERS	% OF HOLDERS	NO. SLAVE-HOLDERS	% OF HOLDERS
1	177	23.9	162	25.5	96	24.6
2	113	15.3	103	16.2	55	14.1
3	96	13.0	83	13.1	57	14.6
4	65	8.8	62	9.7	28	7.2
5	58	7.8	46	7.2	35	9.0
6-9	135	18.2	99	15.6	69	17.7
10-15	73	9.9	53	8.3	27	6.9
16-20	15	2.0	18	2.8	15	3.9
21 +	8	1.1	10	1.6	8	2.0
	<u>740</u>	<u>100.0</u>	<u>636</u>	<u>100.0</u>	<u>390</u>	<u>100.0</u>
NO. SLAVES 16+	3614		3195		2141	
NO. WHITE MALES 16+	1319		1148		859	
RATIO, WHITE MALES 16+ TO ALL SLAVES 16+	2.7		2.8		2.5	

SOURCES: Brunswick County Personal Property Taxes, 1799; Dinwiddie County Personal Property Taxes, 1799; Henrico County Personal Property Taxes, 1799 (Vi).