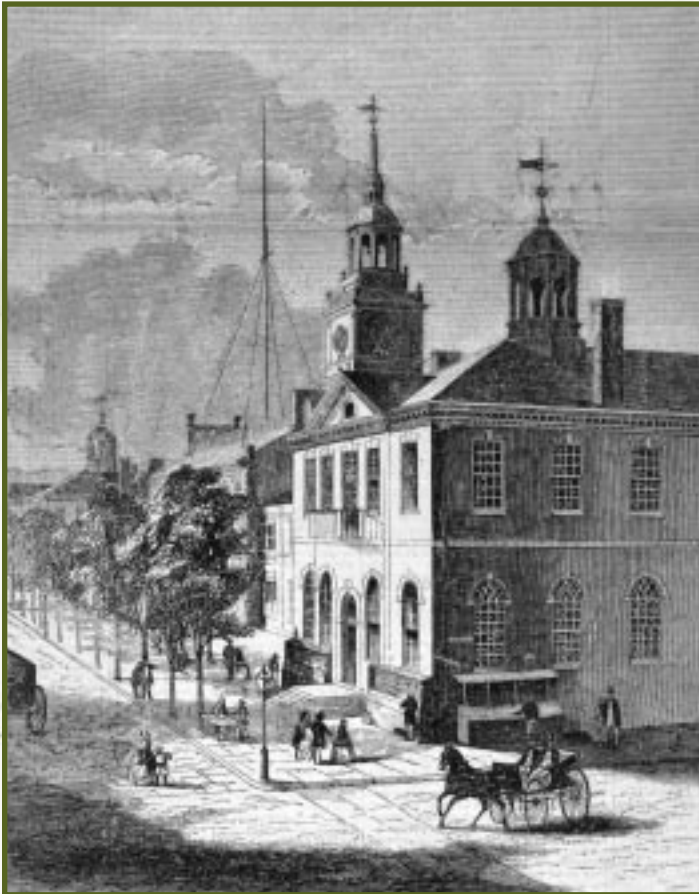


# Seeking Freedom in the Courts:

**The Work of the Pennsylvania Society for promoting the Abolition of Slavery, and for the Relief of Free Negroes unlawfully held in Bondage, and for improving the Condition of the African Race, 1775–1865**

*By Christopher Densmore*



Congress Hall, corner of Sixth and Chestnut, the court house in Philadelphia between 1800 and 1867. Society Print Collection.

*Background: Document from the case of the United States vs. Schooner Phoebe, U.S. District Court in Philadelphia, Oct. 1800. The Phoebe was a captured slave ship. The PAS took charge of the surviving Africans aboard and placed them as bound servants. PAS Papers.*

**I**n the struggle between freedom and slavery, Pennsylvania was the border country. Even before the Pennsylvania Gradual Abolition Act of 1780, voluntary manumissions of enslaved persons by Quakers and others had created a significant population of free people of color within a society where slavery was still legal. By the time of the first U.S. Census in 1790, almost two-thirds of Pennsylvania's black population was free. By 1800, only 1 African American in 10 was enslaved in Pennsylvania, and in Philadelphia the figure was closer to 1 in 100. Some slaves resided in Pennsylvania into the 1840s, but as an institution slavery was dying by 1790 and virtually extinct by 1830.

**1848** Free Soil Party, opposing spread of slavery, organized.

**1850** Congress passes the Fugitive Slave Act.

Slavery flourished in the neighboring states of Maryland and Virginia until the Civil War, and remained legal in Delaware until 1865. Less than 30 miles from Wilmington, capital of the slave state of Delaware, and 100 miles by road from Baltimore, a major center of the southern slave trade, Philadelphia, the site of the Constitutional Convention in 1787 and capital of the United States from 1790 to 1800, was also the city with the largest antebellum African American population and the center of Pennsylvania Abolition Society (PAS) activities. The membership and consequently the activities of the PAS were largely centered on Philadelphia, though through members and connections the PAS frequently became involved in cases elsewhere in Pennsylvania and in neighboring states.

Where some Africans were free and others considered “property” there would be a real and present danger that unscrupulous persons would attempt to claim as slaves people who were free under the law. It was largely to combat this danger that a group of Quakers formed the

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Pennsylvania Abolition Society, originally called The Society for the Protection of Free Blacks, in Philadelphia in 1775. For the next 90 years, the PAS provided legal assistance to ensure that no free person be unlawfully enslaved. This work is documented in the records—on deposit at The Historical Society of Pennsylvania—of the society and of its Acting Committee, which had the immediate responsibility for providing legal assistance. In response to a question in 1797 about the number of people manumitted or rescued through its efforts, the PAS was unable to provide a figure, but estimated the number as “many hundreds.” An 1836 memorandum kept by a particularly active member recorded 25 cases of advice and assistance in little more than a month.

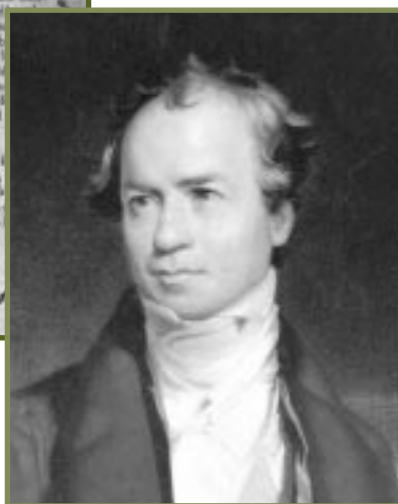
of 28, at which time they became fully free. Their status between the ages of 21—when children born to free parents would have been considered adults and therefore free and independent—and 28 was a form of partial slavery, similar to that of an indentured servant. Faced with the loss of such valuable “property” at an age when he or she would be most productive, a slave owner might think to take or sell his slave out of state. A Pennsylvania law enacted in 1788, however, made such sales illegal. Others resorted to kidnapping. At this time the term “kidnapping” referred explicitly to stealing people to enslave them, rather than to the more modern meaning of holding someone for ransom. A free child enticed or forcibly kidnapped in Philadelphia would become a valuable slave in Baltimore. Kidnapping, sometimes called “the reverse Underground Railroad,” remained a threat to free people in Pennsylvania until the Civil War and was a major concern of the PAS for the same period.

By the time of the adoption of the Constitution in 1787, the United States was a nation divided on slavery, and slavery was increasingly a sectional issue. North of the Mason-Dixon Line, slavery was either abolished or, more frequently, being set on the road to extinction by gradual emancipation laws. The division raised serious questions about interstate relations in the young country. What would be the status of a slave who fled to a free state? Could a slave owner who lived in one state bring his human property with him to another state?

Children of enslaved parents born after passage of the Gradual Abolition Act of 1780 were obligated to serve their owners until the age



Fugitive slave advertisement for Briscoe's Jerry, 1802. PAS Papers.



Right: David Paul Brown, lawyer, argued many cases for the PAS. Society Portrait Collection.

**1851** Christiana riot in Lancaster County, in which a slave owner pursuing a fugitive is killed.

**1857** Supreme Court issues Dred Scott decision, barring all African Americans from citizenship and permitting slavery in all U.S. territories.



The question was answered in part in 1787 by the U.S. Constitution, Article IV, Section 14, which required that a person held to “Service or Labour” in one state who escaped to another be returned. While the Constitution avoided the use of the term “slave,” the intent was clear. Slaves could not become free by flight within the United States. Congress enacted the federal fugitive slave laws of 1793 and 1850 to enforce this constitutional provision.

What about the slave brought to Pennsylvania by his or her master? The Gradual Abolition Act of 1780 allowed masters from other states to bring slaves into the state for temporary residence of no more than six months. Any longer and the slave was legally entitled to freedom, and in a number of cases such African Americans achieved liberty with the aid of the PAS. In 1847, Pennsylvania removed the provision allowing even temporary residence. In 1855, the PAS, in cooperation with the Pennsylvania Anti-Slavery Society, the Vigilance Committee, and others, succeeded in freeing Jane Johnson and two of her children who were traveling through Philadelphia with their master. (This case is the basis for Lorene Cary’s novel, *The Price of a Child* [1995].)

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The PAS also carried out the struggle to protect the freedom of African Americans in the legislature. In a 1788 law, Pennsylvania established fines and prison terms for kidnapping. The PAS frequently lobbied to increase the power of the antikidnapping laws, resulting in improved legislation passed in 1820, 1826, and 1847. It also lobbied to defeat legislation, such as the bill proposed in 1813 that would have required registration of Pennsylvania’s African American citizens. This lobbying was part of a larger campaign to pass abolitionist legislation in the Pennsylvania legislature and in the national government.

The PAS’s activities brought it into conflict with no less a person

than George Washington. On April 12, 1787, George Washington wrote to Robert Morris in Philadelphia to complain about “a vexatious lawsuit” brought by “a Society of Quakers” who were attempting to liberate a slave belonging to Philip Dalby of Alexandria, Virginia. Dalby had come to Philadelphia with his “servant” only to have the PAS institute legal proceedings to obtain the slave’s freedom. The case took more than a year to resolve, though ultimately the Pennsylvania Supreme Court ruled in Dalby’s favor. The PAS lost its case, but Dalby won only after expending considerable time and money to prove his claim. Dalby’s victory was short-lived. Within a year the slave in question, known as Frank or Francis Belt, was reported to have escaped his master in Virginia and was presumed to be en route to Philadelphia.

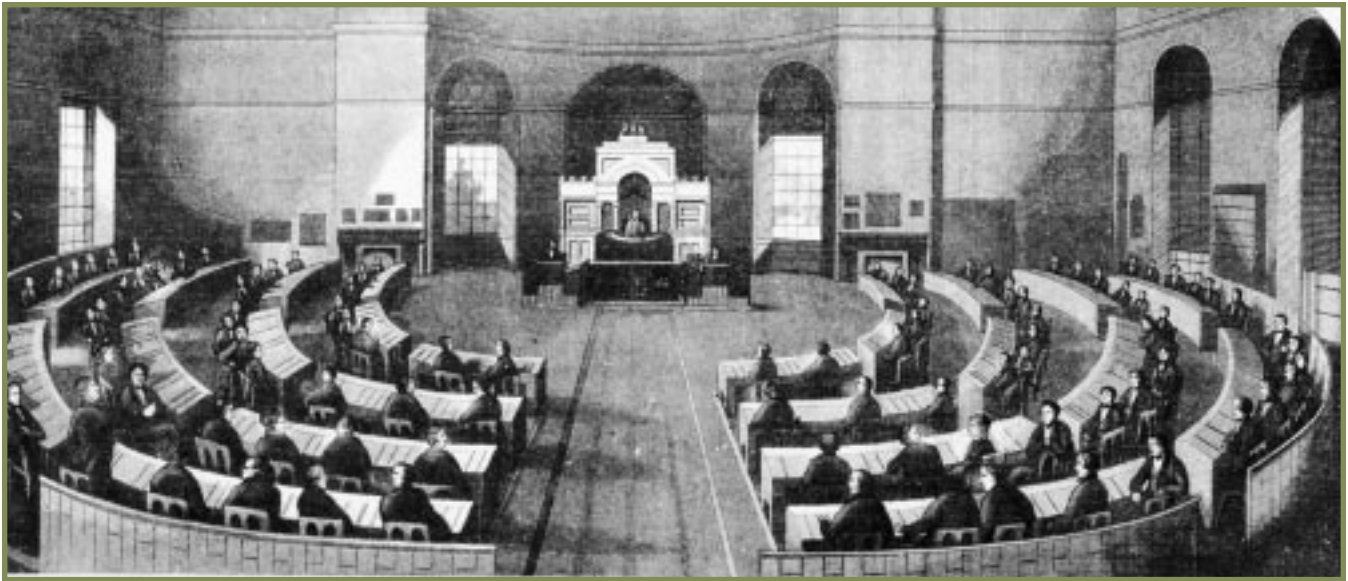
The distinction between the legal work of the PAS and the illegal work of the Underground Railroad in assisting fugitives is not always clear. While the society as a body remained within the law, some of its agents were quite willing to go outside the law when the situation required it. Isaac T. Hopper, a Quaker and member of the Acting Committee of the PAS, was one such member who bent the law to assist individuals in Philadelphia in



Rescue of Jane Johnson and Her Children. From William Still, *The Underground Rail Road* (Philadelphia, 1872).

1859 John Brown’s raid on Harper’s Ferry.

1861 Civil War begins.



Interior of the House of Representatives in Harrisburg in 1857.

the late 1700s and early 1800s. If he preferred the law, it was largely because legal freedom was more secure.

The initiative for seeking freedom was taken in the first instance by the enslaved people themselves, whether by escape or through legal channels. One such case that Isaac Hopper became involved in was that of James Poovey. Poovey was enslaved in Philadelphia but had a mind to be free even though he was too old to hope for freedom under the gradual emancipation act. In 1802 he told his master that he was willing to work faithfully for another seven years if he would be given his freedom at the end. The master refused the offer, as well as a second offer that James be allowed to go to sea and earn enough money as a sailor to purchase his freedom. But James Poovey had made his final offer and announced simply that he would no longer work. His master put him in jail for a month to reconsider, then another month, but Poovey just repeated his determination that he might live the rest of his life in jail but was not going to work another minute as a slave. Hopper, on the prison board, refused to make Poovey return to his

master or to endure further punishment. In the face of this determination, there was nothing more Poovey's master could do. He could not sell Poovey out of state, and was unlikely to have much of a chance of selling him in Philadelphia, so he simply gave up, and Poovey became, in practical terms if not by law, a free man.

The PAS as a corporate body operated within the laws, but the PAS was on the side of freedom whether the person threatened was a free person or a fugitive. Agents and lawyers for the society could be quite inventive in using the courts. In 1837, David Paul Brown secured the release of Basil Dorsey, a fugitive from Maryland, by challenging the opposing council to prove that slavery was legal in the state of Maryland. When the lawyer could not immediately produce a certified copy of the Maryland statutes, Dorsey was freed. In the first case heard in Philadelphia after the passage of the new Fugitive Slave Act of 1850, PAS lawyers secured the freedom of supposed fugitive Henry Garnet by showing that the wills produced by the claimants demonstrating that Garnet was a slave had not been properly sealed and authenticated.

The actions of the PAS and others hostile to slavery, along with Pennsylvania state laws against kidnapping, particularly the act of 1847, increased the difficulty and cost of retrieving a fugitive once that person had crossed into Pennsylvania. Some slave catchers resorted to kidnapping fugitives rather than risk appearing in Pennsylvania courts. The PAS helped to prosecute a number of these kidnappers.

The activities of the PAS in the late 18th and early 19th centuries protected the new and growing free African American community from illegal seizure and kidnapping. Much of this activity was clearly within the letter and the intent of Pennsylvania law, but the efforts of the PAS did much to ensure that those laws were enforced within a society where the majority population was often indifferent and at times very hostile to the rights of people of color. This tireless work of almost a century made Pennsylvania a place of refuge in a country divided by slavery. ❖

Chris Densmore is the curator of The Friends Historical Library of Swarthmore College and author of *Red Jacket: Iroquois Orator and Diplomat* (1999), co-author of *Quaker Crosscurrents: Three Hundred Years of the New York Yearly Meeting* (1995), and other works. He is currently on the executive committee of the PAS.

1863 **Emancipation Proclamation issued.**  
1865 **Congress passes 13th Amendment ending slavery.**