

Cases before Michael Repple, an Alderman of the City of Philadelphia, 1816

PAS Papers, Box 4A Manumissions Documents concerning cases in which slaves were awarded freedom

Letty otherwise called Kitty is acknowledged to have been the Slave of Betty Chitton of Faquari County with the state of Virginia- that she absconded from the Service of her Mistress about seven years ago and came to this State and has had three Children since born in the State and has had three Children since born in the State One aged Six Years second aged four years and the third at the Breash about Six months old.

The Question is are the Children Slaves or Free.

The Mother of the Children has been Committed

N.B. The facts above Stated were admitted by the agent of M^{rs} Chittin-M^r Boss

All persons as well Negroes and Mulattoes as others who shall be born within this state after the first day of March 1780 shall not be delivered and considered as Servants for life or Slaves-and all Servitude for Sale or Slavery of Children in consequence of he Slavery of their Mothers in the case of all Children born within this State after the said day, shall be and hereby is utterly taken away extinguished and forever abolished.

Every Negro and Mulatto Child born within this State after the said day who would in case this act had not been made, have been born a Servant for years or Life or a Slave shall be deemed to be and shall be by Virtue of this Act the Servant of such person, or his or her assign, who would in such case have been entitled to the Service of such Child, until such Child shall attain unto the age of twenty eight years, in the manner and on the Conditions whereon Servants bound by Indenture for four years are or may be retained and holden and shall be liable to like connection and punishment, and entitled to like relief in case he or she be cruelly treated by his or her Master or Mistress and to like freedom dues and other privileges as Servants bound by Indenture for four years are or may be entitled, unless the person to whom the service of any such Child shall belong Shall abandon his or her Claim to the same in which case the Overseers of the Poor of the City, township or district respectively where such Child shall be so abandoned shall by Indenture bind out every Child so abandoned as an apprentice for a time not according the age herein before considered for the Service of such Children.

No Servant bound to serve his or her time in this Province &c Shall be sold or disposed of to any person residing in any other Province or Government without the consent of the said Servant and two Justices of the Peace of the County wherein he lives or is sold under the penalty of ten pounds

Every Servant who shall faithfully serve four years or more-shall at the expiration of their Servitude have a discharge and shall be duly Clothed with two complete Suits of Apparel whereof one shall be new (also furnished with one new asc &c. The latter part of this Section is repealed by this act of the 9th March 1771

But nothing contained in this act shall give relief or shelter to any absconding or runaway negroe or Mulattoe Slave or Servant who shall absent himself from his or her owner, residing in any other State or Country; but such owner shall have like right and aid to demand, claim and take away his Slave or Servant as he might have had in case this act had not passed &c.

And by the Constitution of the United States Art. 4 Sect: 2 no persons held to Service or labour in our State under the Laws thereof escaping into another shall in consequence of any Law or regulation therein, be discharged from such Service or labour buy shall be delivered up on Claim of the party to whom such Service or labour may be due.

Vid 36 Section of the Act of Congress passed 12 Feb 7 1793
 Graydour Digest p.68
 Vid 1 Dall: Rep: 169
 2 Dall: Rep: 227

* * *

A case is before me of considerable importance upon which I should be obliged for your opinion, and if it lays in my power to return the obligation in any way, it shall be Cheerfully afforded-

The case is this

A black woman absconded from her mistress in the State of Virginia about seven years ago. She is acknowledged to have been a Slave- Shortly after her coming to Pennsylvania she married and has had three Children seven born within the State- Are the Children free or Slaves

The impression on my mind is, that they are free-

Doubtful however of the opinion as at present entertained-I am desirous of obtaining professional aid-and have applied to several Gentlemen at the Barr

Your very Siny
 /signed/ M. Reppele

* * *

M. Reppele Esq.

Dear Sir

If you had not expressed a doubt on the subject on which you require my opinion, I would not have hesitated a moment in delivering it The Children in question I conceive to be incontestably free by Virtue of the act of 1780, nor is there any thing in the Constitution or Laws of the United States that militates against it- These Children never were held to Service or labour in Virginia & never did escape from that State, therefore they are not within the II Article of the Federal Constitution

Nor within the act made to carry it into effect further than the Constitution and that Act expressly require I am Clearly of Opinion that we are not bound to enforce the Slave Laws of Virginia. It is the good fortune of this Children that they were born here, the misfortunes of their Mother ought not and cannot prejudice them

I am respectfully

Dear Sir-your most Obl. Humble Servants

/signed/ Peter S. DuPouceau

* * *

The opinion of William Rawle Esquire

Dear Sir

The case mentioned in your letter was stated to me some days ago in conversation.

My first impression was that flight could not destroy the masters right to the issue of his slave, but in further consideration I have altered my opinion and I now think that the positive words of our Act of Assembly are not to be got over.

The Clause in the Constitution of the united States appears to me to relate only to the fugitive herself and not to her issue-particularly when the Children are by a husband taken after her arrival in this State

I am Sirs

With great respect & esteem

Your most ob^l Servant

/signed/ W Rawle

* * *

The opinion of William Meredith Esquire

My Dear Sir

I have reflected upon the very interesting case of the Children born within this State of a fugitive female Slave upon which you have requested my Opinion, and contrary to my first impressions am of opinion that they can not be lawfully claimed as Slaves

The 3rd Section of the Act for the Abolition of Slavery "passed on the 1st of March 1780 declares that all persons as well as Negroes and Mulattoes as others who shall be born in this State from and after the passing of this Act shall not be deemed and considered as Servants for life or Slaves and that all Servitude for life a Slavery of Children in consequence of the Slavery of their Mothers in the case of all Children born within this State from and after the passing of this Act shall be and hereby is utterly taken away extinguished and forever abolished."

Because its Authority is paramount to the Laws of the State when there is a collision they must yield, The 2nd Section of Article 4 declares that no person held to service or labour in one state under the Laws thereof shall in consequence of any law or regulation therein be discharged from such service or labour but shall be delivered up on claim of the party to whom such service or labour may be due, which is virtually that same with the proviso before referred to in the 11th Section of the Act for the Abolition of Slavery.

It will not I think be decided that this Section of the Constitution should receive a Strict construction. Such an over is not less demanded by a regard to general principles favoring liberty &c. than it is by a consideration of the nature and

character of the federal compact-The powers not Delegated to the US by the Constitution, not prohibited by it to the State are especially reserved to the States respectively, or to the People-Sec Art.12 of the amendments

Can it be alleged then that these Children have ever been held to Service or labour in the State from which their Mother absconded? Certainly not-and it necessarily follows that they are not embraced within this Article of the Constitution-but are left to the operation of the Laws of this State

I forbear to advert to the Laws of the US because it cannot go beyond the Article of the Constitution. Congress have no power but that which they derive from the Constitution The Law however is quite as inapplicable to the case of the Children as the Constitution-

C Keppele Esq. Very Respectfully Yours /signed/ W^m. Meredith

The opinion of John Hollowell Esquire

I fully concur in opinion with Mess^{rs}. Duponeceau Rawle & Meredith on the case stated relating to the Children of the black Woman mentioned therein

/signed/ John Hollowell

* * *

The opinion of William Lewis Esquire

I believe that about twenty years ago I gave a similar opinion to the foregoing ones and am fully satisfied that it was perfectly correct

/signed/ W. Lewis

* * *

The opinion of John Read Esquire

Dear Sir

The case which has come before you officially respecting the issue of a female fugitive slave I have considered on general principles and also in reference to our own laws and the Constitution of the United States does not provide for a case of the present kind nor does it seem to have been contemplated by the powers of it. If it should be doubtful, as such a construction would interfere with personal liberty, the inclination would be against the extension of the Constitution to the case. Being of this opinion it appears to me that the words of our own Act of Assembly are so direct and positive that they control the rule of the Civil Law-partus sequitur venturem which has been adopted as a rule of property with Several States where the domestic Slavery has prevailed, I therefore consider the Children as free and standing entirely on a footing different from the mother

With sentiments of Respect

I remain your friend & Humble (?)

Reppel Esq.

/signed/ John Read

* * *

The Case of Eliza a negro child born in this state of the body of a Slave was decided July 26, 1816 by Tilghman C. Yates & Gibson Associates that she was free under the Act of Assembly of 1780