

**THE UNIVERSITY OF NORTH  
CAROLINA. THE JAMES  
SPRUNT HISTORICAL  
PUBLICATIONS. VOL. 17, NO. 1**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649348800

The University of North Carolina. The James Sprunt Historical publications. Vol. 17, No. 1 by Various

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THE UNIVERSITY OF NORTH CAROLINA

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## The James Sprunt Historical Publications

PUBLISHED UNDER THE DIRECTION OF

The North Carolina Historical Society

*Editors:*

J. G. de ROULHAC HAMILTON  
HENRY McGILBERT WAGSTAFF  
WILLIAM WHATLEY PIERSON, JR.

VOL. 17

No. 1



CONTENTS

THE FREE NEGRO IN NORTH  
CAROLINA

SOME COLONIAL HISTORY OF CRAVEN  
COUNTY

CHAPEL HILL  
PUBLISHED BY THE UNIVERSITY  
1920

THE FREE NEGRO IN NORTH  
CAROLINA

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## THE FREE NEGRO IN NORTH CAROLINA<sup>1</sup>

### INTRODUCTION

The most pathetic figure in North Carolina prior to the Civil War was the free negro. Hedged about with social and legal restrictions, he ever remained an anomaly in the social and political life of the State.

The origin of this class of people may be attributed to many sources, the most common of which are (1) cohabitation of white women and negro men, (2) intermarriage of blacks and whites, (3) manumission, (4) military service in the Revolution, and (5) immigration from adjoining States. As early as 1723<sup>2</sup> many free negroes, mulattoes and persons of mixed blood had moved into the Province and had intermarried with the white inhabitants "in contempt of the acts and laws in those cases provided." In the year 1715 in order to discourage intermarriage between white women and negro men, a penalty of £50 was imposed upon the contracting parties, while clergymen and justices of peace were forbidden to celebrate such marriage under a like penalty.<sup>3</sup> However regrettable it may be, it is certain that there were a few disreputable white women who had illegitimate children by negro men, and such children inherited the legal status of the mother. The laws of 1715<sup>4</sup> take cognizance of this fact by imposing a penalty on any white woman "whether bond or free", who shall have a bastard child by any negro, mulatto or Indian.

Probably the most fruitful origin of the free negro class was manumission. While it is doubtful whether many slaves were set free prior to 1740, it is certain that the Quakers in their Yearly Meeting began to agitate the question of emanci-

<sup>1</sup>This paper was prepared as a thesis in partial fulfillment of the requirements for the degree of Master of Arts in the University of North Carolina.

<sup>2</sup>*State Records*, Vol. XXIII, pp. 106-107. Hereafter the Colonial Records and State Records will be referred to as "C. R.", and "S. R."

<sup>3</sup>*Ibid.*, p. 65.

<sup>4</sup>*Ibid.*

pating slaves in that year,<sup>5</sup> and they never ceased to advocate emancipation both by precept and example.

The free negro class was slightly augmented by the addition of certain negroes who had served in the continental line of the State during the Revolutionary War, many of whom had been promised their freedom before they enlisted. It was easy in such cases to allege meritorious service as a ground for emancipation. To the before-mentioned causes for the existence of the free negro in North Carolina should be added one other; namely, immigration, particularly from Virginia. Despite the law to the contrary, many free negroes drifted across the State line from Virginia into North Carolina and quietly settled on the unproductive land adjacent thereto.<sup>6</sup>

In every instance except one (service in the Revolution) the free negro came into being against the will of the State either expressed or implied; but once given a place in the social order of the commonwealth, his tribe increased in spite of adverse laws and customs prescribed by the dominant race.

#### MANUMISSION

It has been previously noted that manumission does not appear to have been a well-established practice before 1741; however the practice was not unknown to the early planters. In the laws of 1723<sup>7</sup> complaint was made that the law which required all free negroes to leave the State within six months after being set free had been disregarded by the negroes, who returned after a time. In order to discourage their return to the State, the law specifically stated that all such free negroes returned contrary to law should be arrested and sold into slavery for seven years,<sup>8</sup> and the sale repeated in case the negro returned a second time. One may readily infer from the very language of the act that it was "obeyed but not executed." That provision of the law which required all free negroes to leave the State within six months after being liberated does not occur in the laws of 1741

<sup>5</sup> Negro Year Book, 1913.

<sup>6</sup> S. H., Vol. 24, p. 329.

<sup>7</sup> Atlantic Monthly, January, 1886.

<sup>8</sup> S. H., Vol. 23, pp. 106-107.

—a fact that would seem to indicate that the law continued to be disregarded.

Prior to 1741 a master could renounce ownership of his slave without leave of court, and according to an opinion rendered by Justice Ruffin in the case of *Sampson vs. Burgwin*<sup>9</sup> he could probably do so until 1796; however such a renunciation on the part of a slave owner was equivalent to a forfeiture of the slave to the public, which in turn might seize him and sell him into slavery.

The law of 1741, which is the first comprehensive statute on the subject of emancipation, was probably enacted as a safeguard against promiscuous emancipation of slaves by the Quakers. By virtue of this law<sup>10</sup> no negro or mulatto slave could be set free on any pretense whatever, "except for meritorious services, to be adjudged and allowed of by the county court, and license therefrom first had and obtained."<sup>11</sup> For the first time since the element of meritorious service enters into the law as a determining factor in emancipation. By reason of the fact that the law of 1741 was flagrantly violated by certain Quakers in Perquimans and Pasquotank counties, it was reaffirmed by the General Assembly of 1777.

During the latter part of the year 1726 the Quakers, already restive under the restrictions of the law regarding the emancipation of slaves, took advantage of the uncertainty of the times to set free a number of slaves in the counties of Perquimans and Pasquotank.<sup>12</sup> These illegally-emancipated slaves were promptly seized and sold into slavery, whereupon the Quakers brought suit in the Superior Court of the Edenton District for the purpose of testing the legality of the seizure and sale of the negroes. The Superior Court held that the slaves had been unlawfully deprived of their liberties, and as a result of the decision of the Court many of the negroes, in question, were again set at liberty.<sup>13</sup> In order to silence any further contro-

<sup>9</sup> 20 N. C., 21.

<sup>10</sup> *Revised of 1804*, ch. 24, p. 66.

<sup>11</sup> *Weeks' Southern Quakers and Slavery*, pp. 209-210.

<sup>12</sup> *Ibid.*

<sup>13</sup> *Remarks on Slavery*, by John Parrish, p. 210 (Weeks Collection).