Supplementary Material

Chapter 6: The Civil War and Reconstruction—Equality/Race/Implementing the Thirteenth Amendment

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In re Turner, 24 F. Cas. 337 (C.C. Md. 1867)

Elizabeth Turner and her mother, Elizabeth Minoky, were slaves in Maryland owned by Philemon Hambleton. In 1864, Marylanders passed a constitutional amendment prohibiting slavery. Two days after that amendment was passed, Turner's mother and Hambleton agreed that Turner would become Hambleton's apprentice, to "be taught the art or calling of a house servant." In 1867, Turner brought a habeas corpus suit asking to be released from her apprenticeship. She claimed that Hambleton's failure to teach her to read and write violated the Thirteenth Amendment and the Civil Rights Act of 1866. Hambleton responded that Maryland law required employees to teach only white apprentices to read and write. Turned maintained that law was unconstitutional.

Chief Justice Chase, in his capacity as a federal circuit court judge, declared that the Maryland apprenticeship law violated the Thirteenth Amendment. Chase's opinion insisted that the Civil Rights Act of 1866 was a constitutional means of enforcing the Thirteenth Amendment. How did Chief Justice Chase interpret the Thirteenth Amendment? What did he mean by "servitude?" Had the Supreme Court accepted the principles of In re Turner, *would much of the Fourteenth Amendment been constitutionally necessary?*

CIRCUIT JUSTICE CHASE

Upon comparing the terms of this indenture (which is claimed to have been executed under the laws of Maryland relating to negro apprentices) with those required by the law of Maryland in the indentures for the apprenticeship of white persons, the variance is manifest. The petitioner, under this indenture, is not entitled to any education; a white apprentice must be taught reading, writing, and arithmetic. The petitioner is liable to be assigned and transferred at the will of the master to any person in the same county; the white apprentice is not so liable. The authority of the master over the petitioner is described in the law as a 'property and interest;' no such description is applied to authority over a white apprentice. It is unnecessary to mention other particulars.

The following propositions . . . seem to me to be sound law, and they decide the case:

1. The first clause of the thirteenth amendment to the constitution of the United States interdicts slavery and involuntary servitude, except as a punishment for crime, and establishes freedom as the constitutional right of all persons in the United States.

2. The alleged apprenticeship in the present case is involuntary servitude, within the meaning of these words in the amendment.

3. If this were otherwise, the indenture set forth in the return does not contain important provisions for the security and benefit of the apprentice which are required by the laws of Maryland in indenture of white apprentices, and is, therefore, in contravention of that clause of the first section of the civil rights law enacted by congress on April 9, 1866, which assures to all citizens without regard to race or color, 'full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens.'

4. This law having been enacted under the second clause of the thirteenth amendment, in enforcement of the first clause of the same amendment, is constitutional, and applies to all conditions prohibited by it, whether originating in transactions before or since its enactment.

5. Colored persons equally with white persons are citizens of the United States.

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