

Pennsylvania's First Civil Rights Movement: 1639-1900

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African Americans in Pennsylvania

The Western hemisphere saw 9.6 million African indentured servants and slaves brought to port on her shores between 1510 and 1870; 427,000 to British North America.¹ Slavery was the primary means through which African-Americans settled colonial America. However, the population of African-Americans was not evenly distributed throughout the continent. Due to agricultural necessity stemming from the plantation economy of the colonial South, this region had an above-average population of African-Americans. Despite receiving a grant of freedom after the Civil War, African-Americans endured a century's long struggle for civil rights in the segregated South that finally ended in the 1980s. However, the legacy of African-Americans is not strictly a Southern legacy. De jure segregation, or segregation by the law, was a prominent fixture in northern states until the turn-of-the-twentieth-century, after which it continued through discrimination and covert forms of segregation.

Prior to the industrial era, Pennsylvania was a slaveholding state. The first community of African-Americans arrived in Pennsylvania in 1639 as the slaves to Swedish, Dutch, and Finnish immigrants residing in the Delaware River Valley region. Pennsylvania's slave population expanded in 1684 when the ship *Isabella* anchored in Philadelphia with 150 slaves aboard.² Africans arriving at the port of Philadelphia were not to be employed in the plantation economy as their counterparts in the South; rather, slavery in Pennsylvania was framed in the mode of commercial economy. Within this economy, African-American slaves were made to work in various occupations, including sailmakers, charcoal-iron workers, farmhands, street vendors, domestic servants, etc.

¹ Emerson Moss, *African Americans in the Wyoming Valley 1778-1990* (Wyoming Historical Society and Genealogical Society and the Wilkes University Press: Wilkes-Barre, Pa., 1992), pg. 1.

² Joe William Trotter Jr. and Eric Ledell Smith, editors, "The Commercial Economy: the Transformation of Africans into African Americans, 1684-1840," *African Americans in Pennsylvania: a Shifting Perspective* (Pennsylvania State University Press: University Park, 1997), pg 41.

Tensions regarding slavery and the slave trade among Pennsylvanians were elevated in 1712, in the aftermath of a widespread slave insurrection in neighboring New York State. Fearing a similar event, the Pennsylvania Assembly passed a nonimportation law, which prohibited the importation of slaves via an excessively high importation tax. Colonial officials in Britain repealed the law. Nonetheless, the number of slaves transported to Pennsylvania through the slave trade slowly declined until the French and Indian War of the 1750s.³

In 1780, after the Revolution, the Pennsylvania legislature reinstated its original ban on the importation of slaves in addition to a law calling for the gradual emancipation of all slaves in the state. It was the first state to do so,⁴ and, as a result, became a beacon of freedom for runaway slaves. Between 1750 and 1790, Pennsylvania's Africa-American population increased from 3,000 to 10,300 persons. The population reached 48,000 by 1840, making Pennsylvania home to the second largest concentration of African-Americans in the northern states.⁵ By 1850, the state had the largest population of free blacks in America.⁶ In 1860 the free black population in Philadelphia numbered 22,000, second only to Baltimore.⁷ Not surprisingly, tensions arose between Pennsylvania and bordering slave states during the pre-civil war era.

Despite its large population of African-Americans, Pennsylvania did not desegregate all public accommodations until 1887.⁸ Before the turn-of-the-century, de jure segregation was eliminated in Pennsylvania, barring a few laws in remote localities. Nonetheless, segregation remained a concern in the state throughout the twentieth-century. However, it was no longer

³ Joe William Trotter, pg 42.

⁴ Speaker John Bayard, "An Act for the Gradual Abolition of Slavery, 1780," *Avalon Project*, Lillian Goldman Law Library, Yale Law School, <http://avalon.law.yale.edu/18th_century/pennst01.asp> (accessed April 18, 2011)

⁵ Joe William Trotter, pg 42.

⁶ *Ibid.*, pg 121.

⁷ *Ibid.*, pg. 142.

⁸ Portal Pa., "Desegregation of Pennsylvania Schools." *Portal Pa.*

<http://www.portal.state.pa.us/portal/server.pt/community/change/18093/school_desegregation/690039> (accessed March 11, 2011).

practiced overtly, but in the form of de facto segregation. De facto segregation is defined as a “term used to describe a situation in which legislation did not overtly segregate” but segregation continues.⁹ From 1887 until 1980, de facto segregation occupied the center of race relations in Pennsylvania. It was characterized by covert school segregation, neighborhood segregation, and work place discrimination. Pennsylvania’s civil rights movement can thus be divided into two separate movements; the first spanning the seventeenth and eighteenth centuries, from the colonial era through the industrial age, and the second 1900 into the 1980s. The first era was particularly significant and warrants further exploration.

Early Segregation Law: Response from the African-American Community

The earliest segregation laws in Pennsylvania date back to the colonial era, before the revolution. Most of these earlier laws concerned marriage and qualifications for freedom. For example, in 1725-26 mixed marriages were made illegal, and mulattos were mandated an indentured term of 31 years. Emerson Moss describes the 1725-26 laws in *African-Americans in the Wyoming Valley* as “harsh.” He writes:

If a white person married a Negro, he was to be fined thirty pounds or sold as a servant for seven years. If a free Negro married a white person, he was to be sold as a slave for life. The clergyman who performed the marriage was to pay one hundred pounds.

By 1789 the Pennsylvania’s legislature codified a custom which qualified freedom via the maternal line. In other words, the children of a free mother and slave father would be free, while those of a slave mother and free father remained slaves. Another component of this law was the

⁹ “De Facto Segregation” *Avalon Project*, Lillian Goldman Law Library, Yale Law School <http://topics.law.cornell.edu/wex/de_facto_segregation> (Accessed April 18, 2011).

requirement that free children complete a period of servitude.¹⁰ Thus the slave heritage remained alive in Pennsylvania well into the nineteenth-century.

Although early segregation laws were restrictive, during the nineteenth-century Pennsylvania became a leader in the abolition movement and civil rights reform. Pennsylvania clashed with Maryland, a slave state, the border of which constituted part of the Mason-Dixon Line, over the condition of runaway slaves. In 1826 the Pennsylvania state legislature recognized escaping slaves to be free persons under its personal liberty law. This law was designed to protect runaway slaves within state borders. However, U.S. federal law continued to support the property rights of slaveholders, hence the tension.¹¹ Consequently, Pennsylvania's personal liberty law was declared unconstitutional in 1842 by the Supreme Court decision, *Prigg vs. Pennsylvania*, on the basis that it interfered with federal law protecting the slave master's rights.¹²

Beginning in the 1820s, Pennsylvania experienced a surge in incidents of racial violence characterized by city-wide outbursts of anti-black sentiment and white mob attacks. This trend lasted through the 1840s. Notable mob attacks on African-Americans in Philadelphia took place in 1834, 1835, and 1838.¹³ The 1834 Philadelphia mob incident occurred in August and lasted three days. Eight-hundred "special constables and militias" were called in to stop the riot which resulted in the burning of one black church, the defacing of another church, and the death of one

¹⁰Sherman Wooden, *The Place I call Home: How Abolition and the Underground Railroad Shaped the Communities of Northeastern Pennsylvania*. The Center for Ante-Slavery Studies, Inc.: Montrose, Pa., 2009. pg. 3.

¹¹ Wooden, pg. 18.

¹² Emerson Moss, pg. 3.

¹³ Portal Pa., "The African Americans Quest for Civil Rights in Pennsylvania," *Portal Pa*, <http://www.portal.state.pa.us/portal/server.pt/community/empowerment/18325/quest_for_civil_rights/673923> (Accessed March 11, 2011).

black man.¹⁴ Professor Edward Raymond Turner commented on this startling trend, writing, "In Philadelphia it often happened that harmless Negroes were set upon and beaten in the streets, or struck with missiles, or cut with knives, when they were molesting no one." Similar outbursts in Pittsburgh were marked by the destruction of several African-American "tenement houses" in 1839, resulting in the deaths of numerous persons.¹⁵

Responding to recent violence and seeking a solution for racial hatred, African-American leaders in Philadelphia began the African-American Convention Movement, which eventually grew into a national movement. Pennsylvania's African-American Convention Movement culminated in a national meeting held in September 1830 at Philadelphia's Mother Bethel African Methodist-Episcopal Church. Representatives from seven states attended the meeting. Pennsylvania's representatives included Richard Allen, who was elected to chair the convention; Belfast Burton, a Philadelphia physician and vice president of the convention; Junius C. Morel, secretary; and William Whipper, representative of the south-central and south-eastern regions of the state. The Bethel African Methodist-Episcopal Church, where the convention was held, was founded by Richard Allen in Philadelphia in 1794-1799. It was sanctioned by the American Methodist Church and is known as the oldest independent Black church in America. Throughout the era, churches served as both meeting places and community centers.

At this first convention of 1830, discussion was pointed towards the plight of African-Americans and a potential solution to their condition in continental America. Colonization and emigration to another country were among the options offered. Representatives concluded in the closing days of the meeting that emigration to Northern Canada was the best solution to the black

¹⁴ Emma Jones Lapansky, "Since they got those Separate Churches: Afro-Americans and Racism in Jacksonian Philadelphia," *African Americans in Pennsylvania: a Shifting Perspective* (Pennsylvania State University Press: University Park, 1997), pg 93.

¹⁵ Portal Pa., "The African Americans Quest for Civil Rights in Pennsylvania."

drama in America. "To the Free People of Colour of These United States," a document authored at the convention titled, further argues that the ideals articulated in the Declaration of Independence and U.S. Constitution were being denied daily by the continuance of slavery in America. An excerpt from the document reads:

"Viewing these as incontrovertible facts, we have been led to the following conclusions; that our forlorn and deplorable situation earnestly and loudly demands us to devise and pursue all legal means for the speedy elevation of ourselves and brethren to the scale and standing of men.

Despite the trend toward emigration during this first convention, the National Negro Convention's 1832 meeting began to shift toward a civil rights agenda.

During the second convention, it was argued that as America was the native land of African Americans, emigration to Canada would be counter-progressive. Consequently, during the 1833 Convention meeting in Philadelphia, the delegates revised the primary objective of the African-American Convention Movement, to that of ending discrimination in America. President Abraham Shadd of Chester County emphasized the revision by urging the nation's leaders to pass legislation to improve the "religious, civil and political condition" of African-Americans.¹⁶ However, before Shadd and other delegates would be able to begin working towards the elimination of discrimination, the matter of slavery had to be dealt with.

The Abolition Movement Expands

In the years following the National Negro Convention, abolition fervor grew throughout the North. As a consequence of this regional shift in attitude, an increasing number of northerners began to assist fugitive slaves in their journey to freedom. This was especially true after the development of the Underground Railroad. Furthermore, Pennsylvania legislators

¹⁶ Portal Pa., "The African Americans Quest for Civil Rights in Pennsylvania."

introduced several progressive pieces of legislation regarding fugitive slaves during this period. Due to its position along the Mason-Dixon Line and resistance to federal fugitive slave policy, Pennsylvania played a special role in the fugitive slave debate that arose during the 1830s.

In January 1837, a bill that would mandate trial by jury for fugitive slaves was introduced in the Pennsylvania legislature. Arguments against the bill included the concern that juries would be swayed by sympathy toward the slave. As a result, the bill failed to pass the legislature; however, it did draw nationwide attention to the abuses suffered by fugitive slaves during their northward journeys. Commentary on this legislation appeared in state and national publications. After the bill was rejected, *The Liberator*, an abolitionist newspaper out of Boston, ran a letter to the editor dated January 14, 1837; it reads:

To kidnap the free colored citizens of the Free States, under the pretence of their being fugitive slaves, is a matter of almost daily occurrence. Cases of this kind happen more in Pennsylvania than in any other State...the Constitution is trampled under foot; and when a portion of the inhabitants of the State petition the Legislature to grant a jury trial to those who are claimed as fugitive slaves...and they are impudently told that the claimant is already exposed to sufficient expense, (dollars being more consequence than human liberty) – and what is still more insulting and outrageous, that ‘juries might be swerved from JUSTICE by sympathy for the negro’ !!!...Spirit of William Penn! where are thou? Genius of American Liberty! How long shall these things be submitted to?¹⁷

Despite Pennsylvania's role as a champion of runaway slave rights, it was an 1834 Supreme Court case originating in Pennsylvania, *Prigg vs. Pennsylvania*, which set back the abolition movement even further.

The case involved Edward Prigg, a slave catcher from Maryland who was arrested for “kidnapping” Margret Morgan, a black woman from Pennsylvania's York County, with the intention of selling her into slavery.¹⁸ According to the Supreme Court ruling, Morgan was “a slave for life, under the laws of Maryland.” In 1832, she fled the property of Margret Ashmore,

¹⁷ Wooden, pg. 192.

¹⁸ U.S. Reports, pg. 536.

her master, and settled in Pennsylvania, where her children were born. Prigg was hired by Ashmore to find Morgan and return her to Maryland. However, under Pennsylvania state law, to “attempt to take, carry away or seduce, any negro or mulatto, from any part of the commonwealth” was a felony punishable by a fine of “not less than \$500 nor more than \$3000” and seven to twenty-one years in prison.¹⁹

After being convicted in the Pennsylvania courts, Prigg appealed his case to the U.S. Supreme Court. The court ruled in favor of Prigg on the basis of a 1793 law which provided slave holders the right to recover their property. It further ruled that states were not required to participate in recovery efforts by mandating local officials assist federal officers. Several states, including Pennsylvania responded to this ruling by enacting alternative personal liberty laws which would make it illegal for state officials and facilities to be used in the capture and/ or return of alleged fugitive slaves.²⁰ Pennsylvania passed a personal liberty law requiring trial by jury for accused fugitive slaves in 1847.²¹ However, the trend of Personal Liberty laws in the North proved to be largely self-defeating. It played a large role in the passage of the Fugitive Slave Act in 1850, just three years later.²²

1850 Fugitive Slave Act: Its State and Regional Impact

By this law fugitive slave cases were handed over to special federal commissioners who were paid on the basis of the slave's release or return. Commissioners were paid ten dollars if an “alleged fugitive” was returned to his/ her master.²³ The act also simplified the process of filing a

¹⁹ U.S. Reports, pg. 539.

²⁰ Wooden, pg. 194.

²¹ Historical Society of Pennsylvania, “Pennsylvania Abolition Society in Context: A Timeline,” *Historical Society of Pennsylvania Online* <http://www.hsp.org/sites/www.hsp.org/files/migrated/pastimeline.pdf> (Accessed April 16, 2011).

²² Wooden, pg. 194.

²³ “Fugitive Slave Act 1850,” *Avalon Project*, Lillian Goldman Law Library, Yale Law School, <http://avalon.law.yale.edu/19th_century/fugitive.asp> (Accessed April 18, 2011).

claim for a fugitive.²⁴ Incentive was thus in favor of returning fugitives to their owners in the south as quickly as possible, often without trial. This led to the misidentification of certain free persons as slaves. Pennsylvania challenged federal policy in 1860 through a second liberty law which outlawed the use of state facilities or officials to enforce federal fugitive slave law.²⁵

In this regard, Pennsylvania was not unique. Several free states had passed laws designed to hinder the impact of the Fugitive Slave Act. This trend became so common in the North that on December 18, 1860, Senator John J. Crittenden of Kentucky introduced proposed amendments to the Fugitive Slave Act that would bar states from passing regulatory legislation.

Article VI of the bill reads:

All State laws which conflict with the fugitive slave acts of Congress, or any other constitutional acts of Congress, or which, in their operation, impede, hinder, or delay the free course and due execution of any of said acts, are null and void by the plain provisions of the Constitution of the United States; yet those State laws, void as they are, have given color to practice, and led to consequences which have obstructed the due administration and execution of acts of Congress, and especially the acts for the delivery of fugitive slaves, and have thereby contributed much to the discord and commotion now prevailing.²⁶

The proposed amendments did not pass the Senate. However, they are representative of a growing tension between the North and the South regarding the abolition of slavery. Fugitives and African-Americans alike began to feel less secure in Pennsylvania due to its proximity to slave states after the Fugitive Slave Act. As a result, Pennsylvania's African-American population began to decline after 1850.²⁷

Challenges to the Fugitive Slave Act

²⁴ Public Broadcasting Service, "The Compromise of 1850 and the Fugitive Slave Act," *PBS Online* <<http://www.pbs.org/wgbh/aia/part4/4p2951.html>> (Accessed April 18, 2011).

²⁵ Historical Society of Pennsylvania, "Pennsylvania Abolition Society in Context: A Timeline."

²⁶ Senator John J. Crittenden, "Amendments Proposed in Congress by Senator John J. Crittenden : December 18, 1860," *Avalon Project*, Lillian Goldman Law Library, Yale Law School. <http://avalon.law.yale.edu/19th_century/critten.asp> (Accessed April 18, 2011).

²⁷ Moss, pg. 97.

During the 1800s, African-Americans made use of the judicial system whenever possible to secure their rights. *Maxwell vs. Righter*, otherwise known as the “Wilkes-Barre Fugitive Slave Case,” again brought Pennsylvania to the forefront of the debate.²⁸ This was primarily a case of state sovereignty versus federal authority. William Thomas, an escaped slave working at the Phoenix Hotel in Wilkes-Barre under the assumed name Britt or Bitt was the plaintiff in the case. The controversy arose when Federal Marshal George Wynoup tried to detain Thomas under the Fugitive Slave Law while Thomas was working as a server at the hotel.²⁹ Upon being approached by Wynoup, Thomas ran and maneuvered what proved to be a dramatic escape.³⁰ Atty. George R. Bedford, describes the scene in his memoirs, writing:

One September in 1853, three strangers were being serviced with breakfast at the old Phoenix Hotel by a colored waiter whose name was William Thomas. Mr. Thomas was a quadron of powerful build and handsome appearance and, who it seems, was a fugitive slave from the south. Other guests at the table and the employees of the hotel were startled by the sudden act of three strangers who all sprang upon Thomas and made a brutal assault in attempt to place handcuffs upon him. They tore off most of his clothing and inflicted several painful wounds. Of the three strangers, one was the agent of the alleged owner of Thomas and the other two were deputies of Colonel Wynkoop, United States Marshal...

The news rapidly spread and a large crowd quickly gathered...Among the crowd were many colored citizens of the town, including Rex, the colored barber, who called to Thomas, ‘Drown yourself, Bill, drown yourself, don’t let them take you!’ The advice to drown himself did not seem to appeal to Bill. Who was standing in the water up to his neck. The sympathies of the crowd were with Thomas and the movements of the agent and two deputies were so hampered and impeded that they practically could do nothing. Meantime, Thomas made his way around the bridge abutment and along the river shore to a point above Union Street and then passed out of sight and made good his escape.”³¹

²⁸ Wooden, pg. 120.

²⁹ William C. Kashatus, “Immortal Splendor: Wilkes-Barre’s Fugitive Slave Case of 1853, *Pennsylvania Heritage*, Spring 2008.

<http://www.phmc.state.pa.us/Portal/Communities/Pennsylvania_Heritage/articles/FugitiveSlavePHM.pdf> (Accessed April 19, 2011).

³⁰ Wooden, pg. 122.

³¹ Moss, pg. 31.

Fredrick Douglas also commented on Thomas's ordeal in a September 23, 1853 article titled "Unsuccessful attempt to capture a fugitive slave." Bill Thomas was never heard from in Wilkes-Barre again. It was assumed he made his way to freedom in Canada.

Local Wilkes-Barre abolitionist William Gildersleeve, responded upon learning of the incident at the Phoenix Hotel, by obtaining papers for the arrest of the five federal officers involved.³² Gildersleeve, formerly of Georgia, was known to be the reformed son of a slaveholder.³³ According to official reports, he requested that the federal officers be charged with "inciting a riot by beating and wounding a certain colored man, named 'Bill' with pistols and other weapons" and "with intent to kill him." Based on this warrant, the Wilkes-Barre magistrate arrested two of the five federal officers and they were charged in the county courts.

This decision was ultimately overturned by the U.S. Supreme Court under Supreme Court Associate Justice, Honorable Judge Robert Cooper Grier in the aforementioned case, *Maxell vs. Righter, et. al.*, U.S. Supreme Court, 1853.³⁴ Judge Grier's ruling had an anti-abolition tone. The judge even labeled Wilkes-Barre's magistrate a "two-penny magistrate." Gildersleeve, responded quickly to Grier's criticisms. In a letter to the Justice, he wrote:

You may know that I hate oppression; that I believe in the doctrine of the Declaration of Independence; that I do not believe in the power of the United States Government, nor in the power of the combined Governments of the world, rightfully to chatterize a single human being; moreover, that I look upon the Fugitive Slave Act as unconstitutional, a foul disgrace to our country, and that I loathe it from my very soul.³⁵

Having witnessed slavery as a child in his native Georgia, Gildersleeve remained until his death committed to abolition via speaking out against the institution, assisting fugitives further north, and securing jobs for blacks who chose to remain in Wilkes-Barre.

³² Wooden, pg. 122.

³³ Moss, pg. 35.

³⁴ Wooden, pg. 120

³⁵ *Ibid.*, pg. 122.

Wilkes-Barre was the subject of litigation over the Fugitive Slave Law on more than one occasion. In a second incident, James Phillips, a local African-American, was arrested under the 1850 Fugitive Slave Law. Phillips resided in Wilkes-Barre for fourteen years after escaping from the plantation of Dennis Hudson in Fauquier County, Virginia. Brought to trial in May 1852, Phillips was detained overnight due to concern that local abolitionists might try to rescue him. The following morning, Phillips was returned to his master in Virginia. Additionally, according to one report, the first defendant charged with harboring a runaway under federal law was Jamison Harvey, a well known miner from Plymouth whose grandfather was accredited with discovering Harvey's Lake in 1781.

Jamison hired a runaway slave from Virginia named Hansen during the 1850s. When Hansen was found hiding at the Harvey estate, Harvey was indicted for harboring a fugitive slave by a federal grand jury seated in Williamsport. The court where Harvey would be tried was not sympathetic to abolitionists. Well aware of the courts bias, Harvey knew that his trial would end in conviction. Harvey offered to purchase Hansen's freedom. After his request was refused, Harvey agreed to pay a settlement fee to the owner and return Hansen to Virginia in order to avoid conviction.³⁶

The Underground Railroad in Pennsylvania: Routes in Wilkes-Barre and Waverly

Considering the noted high profile court cases which originated in Northeastern Pennsylvania during the abolition era, it is not surprising that the area played a role in the Underground Railroad. In fact, Wilkes-Barre, Waverly, and Clarks Green welcomed traffic from the Underground Railroad to the region through the end of the Civil War. Most Underground Railroad scholars acknowledge one route in Pennsylvania, which followed the Susquehanna River to Wilkes-Barre and into New York at Elmira. Difficult terrain in the form of mountains

³⁶ Moss, pg. 31.

and forests are often cited as the cause of limited activity throughout the commonwealth. However, the Montrose-based Center for Anti-Slavery Studies cites at least three routes that bisected Northeastern Pennsylvania.³⁷ In his *A Place I Call Home*, former University of Scranton Administrator Sherman Wooden, outlines each of these routes.

The first is said to have originated in the towns of Quakertown and Bethlehem and followed the Lehigh River to Palmertown. Continuing along the Lehigh on a northward route, the fugitives would next run into the Lehigh Indian Path, which took them into Wilkes-Barre. On the final lap of the journey, “conductors” stationed in and around Wilkes-Barre escorted those escaped slaves who were not willing to remain in Wilkes-Barre further north to Waverly, Montrose, Towanda, and, upstate New York. From there, most fugitives moved on to Canada.

A second and third major route originated in Stroudsburg. The first followed the Pechoquealin Indian Path east through the Pocono Mountains and into Wilkes-Barre. Once in Wilkes-Barre, the second route merged with the first. Alternatively, the second route bypassed Wilkes-Barre altogether. Taking a northwesterly route from Stroudsburg, it stopped first in Dunmore and Waverly, and continued along the shores of the Susquehanna to Sugar Run, Towanda, and upstate New York.³⁸

Additionally, two Underground Railroad stations are known to have operated out of Wilkes-Barre. One was operated by abolitionist William Gildersleeve, and the other ran out of the Bethel A.M.E. Church, then located on State Street, Wilkes-Barre.³⁹ The station occupied by Gildersleeve encompassed a network of sympathizers living along the north branch of the Susquehanna River who were willing to harbor runaway slaves. This particular route went north from Wilkes-Barre to Providence (Scranton), through Leggett's Gap and towards Abington and

³⁷Wooden, pg 74.

³⁸ Ibid., pg. 82.

³⁹ Moss, pg. 36.

Montrose. According to an account by Moss, the runaways would “leave Wilkes-Barre about 10:00 P.M. with instructions to keep to the main road until he got to Providence and then turn left and take to the woods.” Several Underground Railroad operators lived in Montrose and would assist runaways through the last leg of their journey.⁴⁰

On one occasion Gildersleeve, who would often usher runaways as far as Providence, was brought to trial by a slave owner and summoned to court in Philadelphia. Although the judge found insufficient evidence to charge him and he was not punished, Gildersleeve admitted his guilt, stating, “I plead guilty to having helped runaway slaves get to Canada; I felt I was obeying a higher law, even than my country’s.”⁴¹

Just outside of Scranton, the town of Waverly had the only significant African-American population between Wilkes-Barre and Montrose during the nineteenth-century.⁴² In 1954 an effort to compose a history of the town yielded several homes identified as stops on the Underground Railroad. The former “Ezra Colvin House” in Fleetville, for example, was once, “the prize harbor for runaway slaves, and was never known to yield a catch.” Additionally, a “secrete closet” that “sometimes contained a runaway slave, hiding until time to start his journey northward” was discovered in a Clarks Green residence.⁴³

Above are just two examples of Underground Railroad activity in the Waverly and Clarks Green area. Throughout the abolition era, the dominant attitude of the area was sympathetic to runaway slaves, and so it became a beacon for African-Americans migrating North.⁴⁴ The first group of African-Americans settled in Waverly in 1840. By 1854 the black population was large

⁴⁰ Moss,, pg. 36.

⁴¹ Ibid., pg. 37.

⁴² Ibid., pg. 35.

⁴³ Ibid., pg. 34.

⁴⁴ Ibid., pg. 34.

enough to require the construction of an African Methodist Episcopal Church. According to the Census Bureau, the population had reached forty-six persons in 1860.

Black residents of Waverly did not take their freedom for granted and were active in the community. For example, eleven African-American residents responded to President Lincoln's call for troops in 1862 by volunteering for the Union Army. However, post-Civil War Waverly's African-American population declined. Within the following decade it fell to forty persons. Despite dwindling numbers, Waverly's African-American residents continued to grow in prestige, and were among the town's most respected residents. John R. Johnson, the son of a former slave was elected to the Waverly Borough Council in 1897, and, Gran Tillman, another African-American, served as constable.⁴⁵ Nonetheless, by 1920, Waverly's African-American population fell to just six. Waverly has not experienced minority resurgence since the nineteenth-century, and its past as a pioneer of African American civil rights has been almost forgotten.

African-American Voting Rights in Pennsylvania: the Movement for Black Suffrage

Prior to the Civil War, voting rights occupied a large portion of the civil rights movement in Pennsylvania. Article III, Section 1 of the 1790 Pennsylvania Constitution reads:

In elections by the citizens, every freeman of the age of twenty-one years, having resided in the State two years next before the election, and within that time paid a State or county tax, which shall have been assessed at least six months before the election, shall enjoy the rights of an elector: *Provided*, That the sons of persons qualified as aforesaid, between the ages of twenty-one and twenty-two years, shall be entitled to vote, although they shall not have paid taxes.⁴⁶

Free men were not specified as black or white, and so free African-Americans who met the above qualifications were historically allowed to vote in Pennsylvania. However, a 1837 revision to the 1790 Pennsylvania Constitution qualified the definition of free men qualified to vote as

⁴⁵ Moss., pg 35.

⁴⁶ "Constitution of Pennsylvania 1790," *Marietta, Pa.*, <http://ww.mariettapa.net/pa_pacon_1790.html> (Accessed April 10, 2011).

“white,” effectively disenfranchising African-Americans. The lead up to this decision began in 1835 with the case of a Wilkes-Barre man denied the vote due to the color of his skin.

In 1835, William Fogg, a free black man from Scott Township, present day Lackawanna County, was denied the right vote due to his African ancestry.⁴⁷ Hiram Hobbs, a Wilkes-Barre polling officer, turned Fogg away when he arrived at his station to cast a vote for governor in the October 1835 general election. Fogg, a landowner and taxpayer meeting all voting requirements, sued Hobbs through the Luzerne County courts.⁴⁸ Judge David Scott, sitting on the local Luzerne County Court of Common Pleas, presided over the case and ruled in favor of Fogg. He considered it a case “brought for the purpose of ascertaining the political rights of the man of colour in Pennsylvania.”⁴⁹ According to Scott’s ruling, neither Pennsylvania’s 1790 Constitution nor the laws of either the U.S. or the state prohibited blacks from voting. Furthermore, Scott noted that free blacks and bi-racial persons had voted in Pennsylvania elections since the Revolution. Nonetheless, Fogg’s opponents appealed the decision to the Pennsylvania Supreme Court.⁵⁰

The initial ruling was reversed in July 1837 by Justice C.J Gibson of the Pennsylvania Supreme Court.⁵¹ Gibson ruled that the language of the 1790 Constitution was amended to grant voting rights to all “freemen” because phrasing it as “white freemen” was considered to be “redundant.” Furthermore, Gibson wrote, African-Americans, by definition, could not qualify as freemen. Gibson’s decision resulted in a polarization of black and white Pennsylvanians regarding the issue of black suffrage.

⁴⁷ Supreme Court of Pennsylvania, Western District, Sunbury, 6 Watts 553; 1837 Pa. LEXIS 136

⁴⁸ Wooden, pg. 193.

⁴⁹ Supreme Court of Pennsylvania, Western District, Sunbury, 6 Watts 553; 1837 Pa. LEXIS 136.

⁵⁰ Portal Pa., “The African American Quest for Civil Rights in Pennsylvania.”

⁵¹ Supreme Court of Pennsylvania, Western District, Sunbury, 6 Watts 553; 1837 Pa. LEXIS 136.

Petitions sent by anti-suffragists from across the state arrived at the capital soon after Gibson's ruling, urging that African-Americans be disenfranchised. *The Liberator*, an abolitionist newspaper out of Boston, reported in a January 14, 1837 article on a meeting in Bucks County, Pennsylvania in which the following resolution was passed:

We will use all honorable and legal means, to have a full investigation of such ballot boxes...as will ferret out and detect all the illegal votes given by Negroes and others

Because, -- In referring to the first principles of our government, it was never intended that the blacks should be amalgamated with, and placed on an equality with whites, and enjoy the same rights and privileges of voting...

Because, -- Pennsylvania, from its foundation down to the present time, was, and always has been a political community of white men exclusively...⁵²

The above resolution continues to cite the inferiority of the African race as the cause for effectively denying the vote to free blacks throughout the state.

In 1838 African-Americans were disenfranchised through a Reform Convention, which revised the 1790 Pennsylvania Constitution. Delegates voted to insert "white," via a clause, to further qualify franchised persons under the amended constitution. With this reform, forty thousand African-Americans in Pennsylvania were disenfranchised until the repeal of the clause thirty years later after the Civil War and . In response, Philadelphia's African-American leaders met at the First Presbyterian Church to draft a response, ultimately titled, "Appeal of Forty Thousand Citizens Threatened with Disenfranchisement."⁵³ Led by Robert Purvis, a wealthy African-American activist and founder of the American Anti-Slavery Society in Philadelphia, the "Appeal of Forty Thousand" received support from abolitionists across the country. Nonetheless, African Americans were constitutionally denied the vote in 1838.⁵⁴ Three years later, in 1841,

⁵² Wooden, pg. 193

⁵³ Portal Pa. "The African American Quest for Civil Rights in Pennsylvania."

⁵⁴ Wooden, pg 193.

delegates gathered in Pittsburgh to generate political action for their civil rights and suffrage at the Convention of the Colored Freemen of Pennsylvania.

The Education of African-Americans in Pennsylvania

Efforts to educate Pennsylvania's African-American populations date back to the eighteenth-century. Education facilities for the state's black community followed a particular model until 1881 when the state's schools were desegregated. All schools, for example, were privately funded and operated on a charitable basis. Groups that were active in this regard include the Quakers, the Pennsylvania Society for the Abolition of Slavery, and the African-American Methodist Episcopal Church, or AME.

The earliest recorded educational institution for African-Americans was an adult evening school founded in 1759 in Philadelphia by Anthony Benezet, a French Huguenot refugee associated with the Quakers. In 1770 the Quakers followed his lead and began to finance the schooling of African-American children in "elementary subjects and domestic arts." By 1800, there were an estimated ten schools of this variety educating Philadelphia's minority youth. Similar to the role of the Quakers in Philadelphia, the AME contributed to the education of African-American children in Pittsburgh beginning in the 1830s.

Pennsylvania legislators passed a statewide free education law in 1834. Records list some African American schools funded under this measure in major Pennsylvania cities; however, these were separate and unequal facilities. A majority of African-American children continued to be educated through privately financed schools, or hired tutors. Locally, the Wilkes-Barre Academy (1804-1836) was the city's only education facility until 1836 when the city's first free school was opened. As schools were not integrated under the 1834 act, African-American

children were not admitted to the facility.⁵⁵ The first mention of a local school for African-Americans appears in an 1854 newspaper account. Referred to as the Colored School, the institution was located at the Bethel A.M.E. Church on South State Street, Wilkes-Barre. By 1865 three schools educated 187 children in Wilkes-Barre, including the State Street School.⁵⁶

Students at Wilkes-Barre's "Colored School" were taught in terms of three to five months per year. Conditions were poor and in 1873, Wilkes-Barre's African-American population took reformatory action. Lewis Brown, a local parent of children attending the colored school, filed a suit against Wilkes-Barre city school board directors on September 29, 1873 after his daughter Letta and son Walter were refused admittance to his district's white school. This lawsuit was endorsed by the Bethel A.M.E. Church.⁵⁷ Under Pennsylvania's common school law, signed by Governor William Bigler, May 8, 1854, districts were permitted to maintain separate African-American schools in districts with twenty or more colored children.⁵⁸ When and if separate facilities were provided, schools could not be compelled to admit minority students. Wilkes-Barre's first district, of which Brown was a resident, did not meet this qualification.

Approximately twelve African-American youths resided in the first district when Brown's case went to trial. School board officials argued that Brown's children could attend the State Street School in the third district as the district's African-American children had in the past. On November 21, 1873 the local courts, in a decision by Judge Garrick M. Harding, ruled in favor of Mr. Brown. However, the court declined to comment on the issue of constitutional right.

In the year following the Brown ruling, Wilkes-Barre's State Street school became wrapped up in controversy once again. Responding to what it determined as legitimate

⁵⁵ Moss, Pg. 64.

⁵⁶ Ibid., pg. 68.

⁵⁷ Ibid., pg. 68

⁵⁸ Portal Pa., "Desegregation of Pennsylvania Schools."

complaints regarding poor conditions at the school, the school board purchased a \$16,000 lot to construct a larger school for the city's African-American children near a local German Catholic Church. Ninety-six white residents of German descent signed a petition of protest in July 1874, delaying construction for two years.⁵⁹ However in 1877, the school was finally completed and named Gildersleeve School after the local slave liberator William Gildersleeve.⁶⁰ Most African-Americans children attended the Gildersleeve School until the late nineteenth-century.

1881: The Desegregation of Pennsylvania Public Schools

In 1881 the Pennsylvania state legislature amended its 1854 "Act for the regulation and continuance of a System of Education by Common Schools," to officially ban segregation statewide in educational facilities. This decision came in response to a court ruling on school segregation brought by Elias Allen on behalf of his children.

Elias Allen, an African-American from Meadville, Crawford County, challenged the 1854 law which segregated Pennsylvania public schools after his children were denied entrance to the local South Ward School in September 1880. South Ward was both closer to his home and of a superior quality to the all-Black school. The following year, 1881, the Crawford County School Board assigned Allen's children to the all-black school, and he refused to send them. Fed up with the system, Allen appealed to the Crawford Country Court of Common Pleas and sued the Crawford County School Board. Allen based his claims on provisions set forth in the Fourteenth Amendment, which declared:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without the process of law; nor deny to any person within its jurisdiction the equal protection of the laws.⁶¹

⁵⁹ Moss, pg. 68.

⁶⁰ Ibid., pg. 69.

⁶¹ Portal Pa., "Desegregation of Pennsylvania Schools."

Judge Pearson Church, of the Thirteenth Judicial District heard the case. Church ruled in favor of Allen. He concluded that education constituted “property,” and as African-American schools were of unequal quality, school segregation was a violation of the Fourteenth Amendment. Furthermore, Judge Church declared the Common Schools act unconstitutional.

In 1881 the Pennsylvania state legislature amended common school law in an act titled “A Further Supplement to the school law of this commonwealth and to abolish all distinction of race or color in the public schools thereof.” By this act, segregation was banned in public schools statewide. Signed by Governor Henry M. Hoyt of Luzerne County on June 8, 1881, the act had passed the state senate by a margin of 30-6 and the house by 109-25. Under the new system it was made:

unlawful for any school director, superintendent or teacher to make any distinction whatever, in account of, or by reason of the race or color of any pupil or scholar in attendance upon, or seeking admission to, any public or common school, maintained wholly or in part under the school laws of this commonwealth.⁶²

Nonetheless, de facto segregation continued in Pennsylvania schools throughout the twentieth-century.

The Statewide Desegregation of Public Accommodations

Statewide, “public accommodations” were desegregated in 1887 with the passage of an equal rights bill in the state legislature.⁶³ With this bill segregation by the law, or de jure, in Pennsylvania was largely over. However, segregation lived on in the form of de facto school segregation, and discriminatory hiring practices. Pennsylvania’s second civil rights movement was a reaction to this sort of de facto segregation. This second movement occurred from 1887 through the 1980s. The Wyoming Valley was no exception. Discrimination within private

⁶² Portal Pa., “Desegregation of Pennsylvania Schools.”

⁶³ Portal Pa., “Desegregation of Pennsylvania Schools.”

organizations, work place discrimination, and neighborhood segregation served as the primary sources of de facto segregation in the local area. Early on this was particularly true of the Wilkes-Barre Y.M.C.A.

A group of local white men seeking reading and lecture rooms founded the YMCA on May 8, 1863 in Wilkes-Barre.⁶⁴ In 1880 the Y.M.C.A. began to encourage young boys to attend “improvement meetings” held weekly at its South Franklin Street complex. Bible classes and moral lectures were the earliest forms of community outreach practiced by the Y. However as membership rose throughout the 1880s, it began offering vocational courses, typing classes, and gym services. With this, the small building the Y operated out of since 1863 became insufficient and in 1892 it purchased a structure on North Main Street at the current site of *The Times Leader* building. At this complex there was a mild degree of integration in specific public areas. For example, religious services were integrated.

In 1907 a black man applied for membership at the Y. Within a short period, his application was withdrawn from consideration. White officers of the Y cited concern that the man could not afford the twenty to thirty dollar annual fee as cause for this action. Edward Welles, a prominent member of the community and member of the Y, protested the decision.⁶⁵ Responding to his protests in reference to the “color line controversy” executive director Charles F. Johnson outlines the basis for his decision in the following terms:

I. Our membership of 1,200 is made up of (1) 250 business men like yourself; (2) of 280 boys ten to seventeen years of age, and (3) of 670 young men. Of these 670 young men 334 are not in any way connected with any church as they do not class themselves as Christians.

II. The Association seeks to reach the mass of young men. We discourage individual work in our gymnasium in order to get large numbers of men doing class work. The greatest good to the largest number is our aim.

⁶⁴ Moss, pg. 82.

⁶⁵ *Ibid.*, pg. 83.

III. To have continued in membership this colored man would have lost to us not less than 40 young men. He was a member for one week and we had a small hornets' nest going on because of it.

IV. In all those things of the Catholic Church in which the colored man can enter he is also free to enter with us. We seldom have a religious meeting without some one or more of that race present. Our reading rooms and game rooms are always open to them without price or criticism and these privileges are frequently used by the. We have been forced to draw the line because of the Gymnasium, baths, lockers, and bowling alleys, features that at the present are not part of the work done by the Catholic Church. In these privileges we have drawn the line simply because of the fact that we would lose a large number of the non-professing young men now in our membership. Correspondence with several Associations, both large and small, brings to light the fact that practically none of them dare take them into these physical privileges.⁶⁶

In March 1922, to combat general discrimination at the Y.M.C.A., a separate, "Colored" Y was organized in Wilkes-Barre.

Conclusion: W.E.B. DuBois Initiates Pennsylvania's Second Civil Rights Movement

The last civil rights legislation out of the Pennsylvania state legislature came in 1887. Passed with little debate, this law fined persons responsible for the failure to integrate public accommodations. By 1900, few segregation laws remained on the books in the Pennsylvania.⁶⁷ Segregation by law was effectively eliminated; however, as noted earlier, de facto segregation remained a reality. By the 1950s there were three areas in which de facto segregation manifested in Pennsylvania: de facto school segregation, hiring workplace discrimination, de facto neighborhood segregation. However, the movement to stamp out de facto segregation in the state began around 1900 with W.E.B. DuBois efforts in Philadelphia.

In 1899, DuBois published *The Philadelphia Negro and its Legacy*, a work which touched on several matters of de facto racial segregation. With this work, he started

⁶⁶ Moss, pg. 85.

⁶⁷ Portal Pa., *The African American Quest for Civil Right in Pennsylvania*.

Pennsylvania's second civil rights movement. DuBois, originally of Great Barrington Massachusetts, came to Philadelphia in 1896 at the request of Charles C. Harrison, acting provost of the University of Pennsylvania., who had offered him a job. At the time, twenty-eight year old DuBois was a professor at Wilberforce University in Ohio. Well educated, having studied at Fisk University and in Berlin and renowned as a young American historian, DuBois was known best as the first African American to receive a doctorate from Harvard.

Along with his wife of three weeks, Nina, DuBois arrived in Philadelphia, taking residence between Seventh and Lombard Streets. Philadelphia during DuBois' lifetime was the second largest city in the U.S., an industrial giant on the rise. *The Philadelphia Negro* focuses on Philadelphia's seventh ward, and is a careful sociological assessment of the African-American in Philadelphia. In what has been described as a "methodically innovative and empirically rich study," DuBois mapped every black residence, church and business; conducted interviews; and explored city records to formulate an accurate portrayal of "the Philadelphia negro."⁶⁸

DuBois further investigated biological notions of race which concluded African Americans to be inferior. His findings on race suggested that this was not the case. Rather, he pinpointed unequal opportunities among blacks as the source of unemployment and urban impoverishment. Overall, the text yielded two important insights. First, it revealed the trends in segregation and employment discrimination within the city. Second, it concluded that the experience of contemporary blacks is fundamentally linked with their past history of slavery and racial oppression.⁶⁹

The Philadelphia Negro is immensely useful as a record of race relations in Philadelphia at the turn-of-the-century; it proves more significant when viewed as a vehicle of DuBois' efforts

⁶⁸ W.E.B. DuBois, *The Philadelphia Negro and Its Legacy* (University of Pennsylvania Press: Philadelphia, 1998), pg. 7.

⁶⁹ DuBois, pg. 27.

to bring racial relations to the forefront of Pennsylvania's political conscience. With this book, Dubois helped propel Pennsylvania into the twentieth-century civil rights movement. During Pennsylvania's first civil rights movement, African American's used the courts to seek reform and win their rights. In the later half of Pennsylvania's civil rights movement, racial tensions were not played out in the state courts as frequently. This was largely due to a relative decline in the population of African Americans in most regions of the commonwealth, especially in the northeast. Nonetheless, African-Americans continued to speak out as they experienced segregation in its new form, de facto segregation. Many were inspired by the legacy of their ancestors who had made names for themselves in Pennsylvania as freemen or escaped from slavery to find refuge within its borders. The struggle goes on today.

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