Time, Space, and Jurisdiction in Atlantic World Slavery: The Volunbrun Household in Gradual Emancipation New York

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The widow Drouillard de Volunbrun and her household boarded the brig *Mary & Elizabeth* in November 1796, only after many failed attempts to leave the French colony of Saint-Domingue.[1] Like many others, they

1. "La Citoyenne" Drouillard Vve Mallet Volunbrun, appeared before Claude Jean Baptiste Le Droit de Bussy, Chancellor of the French Republic, after arriving in New York, and narrated the details of her household's travels from Port-au-Prince to

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sought refuge from the violence and deprivation of the Haitian Revolution. In the party were the widow, her mother, a male companion, Marie Alphonse Cléry and, at best count, twenty enslaved people. Catastrophe struck November 18 when the *Mary & Elizabeth* wrecked on the west end of the Miguana Reef, off the Bahamas. The vessel and cargo were "totally" lost, but the captain, crew, and twenty-nine passengers, including the Volunbrun household, were "saved."[2] By the following April of 1797, the household was again at sea, bound for New York City. New York was, Shane White explains, "the center of the heaviest slaveholding region" in the North. Slaveholdings were small, with slaves a shrinking minority of the overall population. Still, one in five households held at least one slave.[3] The household maintained a modest profile during their first four years in the city, moving to what was then the city's northeast periphery, Eagle Street near Bowery.[4] Their neighbors were skilled workers, including butchers, masons, and men working the maritime trades.[5] The widow put most of those she termed slaves to work manufacturing cigars.

In the summer of 1801, Cléry hired the sloop *President*, intending to relocate the household south to Virginia. But when the sloop failed to depart as scheduled, the City's Manumission Society activists moved

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New York. "Declaration de J.^{ne} Mathurine Drouillard et de L.^{ce} Bigot." 20 Pairial an 6eme [June 9, 1797]. Microfilm Outre-Mer 5MI/1437, frames 22-25, Fonds des Affaires Etrangerès, New York, Centre d'Accueil et de Recherche des Archives Nationales.

2. "Philadelphia; Friday, November, 18," *Finlay's American Naval and Commercial Register*, November 18, 1796, 3; "The Schooner Governor Clinton…," *Philadelphia Gazette and Universal Daily Advertiser*, November 18, 1796, 3; "Marine List; Philadelphia, November 18," *Gazette of the United States*, November 18, 1796, 3; and, "Arrived at Philadelphia," *Argus Greenleaf's New Daily Advertiser*, November 21, 1796, 3.

3. Ownership was concentrated among white male merchants, retailers and, artisans, and among widows, many of whom ran boarding houses and other service establishments. At the same time, the number of the city's free black residents was on the rise, totaling just over 1,000 or one-third of the city's overall black population. Shane White, *Somewhat More Independent: The End of Slavery in New York City, 1770–1810* (Athens, GA and London: University of Georgia Press, 1991); and Leslie M. Harris, *In the Shadow of Slavery: African Americans in New York City, 1626–1863* (Chicago: University of Chicago Press, 2003), 56.

4. White, *Somewhat More Independent*, 31; and, R. Darrell Meadows, "Engineering Exiles: Social Networks and the French Atlantic Community, 1789–1899," *French Historical Studies* 23 (2000): 67–102.

5. The composition of Eagle Street's residents was taken from David Longworth and Abraham Shoemaker, *Longworth's American Almanack, New-York Register, and City Directory* (New York: T. & J. Swords, 1797); David Longworth and Abraham Shoemaker, *Longworth's American Almanack, New-York Register, and City Directory* (New York: T. & J. Swords, 1798); and, David Longworth, *Longworth's American Almanack, New-York Register, and City Directory* (New York: T. & J. Swords, 1800.)

to intervene by a series of writs. The first was for replevin, a demand that the widow Volunbrun establish her legal right to hold the people in question as her property; the second accused the widow of trespass and false imprisonment. In the Society's view, free people were being held contrary to law. The widow, they said, was an illicit slave trader, clandestinely transporting people out of the state. New York law prohibited the movement of slaves through the state, and the penalty for such trading was a fine and manumission of the slaves in question. The society also leveled a charge that had travelled with the household from revolutionary-era Saint Domingue: those whom the widow claimed as slaves were people freed by the French abolition of 1794.

A second group of city residents, described as "free black people" and "French negroes," raised their own objections. On the evening of August 10, they "collected in a mob" outside of the household's residence, demanding the liberty of those held inside. Newspapers reported how the crowd leveled vivid threats, with one witness describing two hundred plus people "armed with cudgels," making "menacing gesticulations," and "crying out that they would set the house on fire, and murder every white soul in it."[6] Local constables called out fifty city watchmen. The crowd was dispersed, but not before twenty-three "rioters" were arrested and taken to Bridewell, the city's jail.

This scene, often termed a riot, triggered varied reactions that left frayed ends everywhere. The household cancelled its move to Virginia.[7] The widow's attorney circulated a curious document in which the individuals in question were said to affirm that they were slaves and "satisfied with their condition, and with the conduct of their mistress."[8] Local newspapers published lengthy debates. "A Friend to Order" defended Volunbrun and Cléry. Others—"Philanthropist," "A Friend to Candor," "A Friend to Justice," and "Peace"—defended the Manumission Society. Still, the Society lost all resolve to pursue the freedom suit and legal proceedings against the widow languished.[9] Prosecution of the Eagle Street crowd

6. Deposition of John Marie Garvaise, August 11, 1801, *The People v. Marcelle, Sam, Benjamin Bandey and 20 others*, New York County District Attorney Indictment Records, August 8 1801 – February 8/9, 1802. Reel 6. New York City Municipal Archives. A Friend to Order, "Citizens of New-York," *New-York Gazette*, September 1, 1801, 2.

7. They did, however, continue to dispose of their household goods. Volunbrun advertised for sale a covered wheel wagon and two bay horses at the end of August 1801. "For Sale," *American Citizen and General Advertiser*, August 26, 1801, 3.

8. A Friend to Order, "For this Gazette; To the Public," *New-York Gazette*, August 24, 1801, 2.

9. The Society's principal attorney, Peter Jay Munro, seems never to have replied to requests for his opinion of the case. New York Manumission Society (hereinafter NYMS)

continued apace. By October, twenty-three "French negroes" were convicted and sentenced to sixty days.[10] Were those held by the widow Volunbrun slaves or free people? This question was never resolved in New York. Instead, by early 1802, as the incidents of August receded from view, the widow Volunbrun moved to the slaveholding city of Baltimore, with her slaves and without incident.

The household of the widow Volunbrun embodied the problem of slavery and law in the Atlantic world. Assembled during the Haitian Revolution, then travelling through three empires and five jurisdictions from 1795 to 1820, at each juncture the problem of slavery and freedom—particularly its juridical dimensions—changed as the household confronted new legal regimes. Still, the household, like others born during the revolution in Saint-Domingue, carried with it an enduring juridical puzzle. Had not France abolished slavery in 1794 by decree of the National Convention, and, if so, how should the courts of the Atlantic world regard black refugees said to have been made freed people?

This article takes up an 1801 freedom suit brought by those held as slaves in the Volunbrun household, examining how the legal culture in one United States port city, New York, attempted to answer these questions. It was the era of gradual emancipation and New York lawmakers were engaged in a self-conscious series of reforms aimed at regulating and ultimately bringing an end to slavery in the state. Still, little about slavery and law was settled. And when confronted with the lived experiences and doctrinal questions posed by black refugees from Saint-Domingue, legal culture evidenced neither the acumen nor the ambition to settle who was a slave and who was not. Courts gave way to zealous attorneys, aggressive reformers, impassioned pundits, illicit traders, household intimacies, and disorderly crowds for supremacy over slavery's juridical dimensions. Atlantic world dynamics forced the port city to grapple with authorities constructed well beyond its territorial jurisdiction—fleets of French naval vessels, refugees from Caribbean revolutions, decrees of generals who were themselves former slaves, and the force of some 200 "French negroes" gathered on a local street. Still, in this highly contested but never fully litigated case, slavery helped make the reputations of New York's elite attorneys and define the parameters of its distinct legal culture.

This episode has been frequently retold by political historians to explain the dynamics of race and power in early nineteenth century New York

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[Minutes,] October 17, 1801, and December 22, 1801. New-York Historical Society (hereinafter N-YHS.)

10. "Disorderly Houses," *New York Gazette*, October 15, 1801, 2.

City.[11] With Saint-Domingue's black refugees at its center, and French Negroes among its chief protagonists, the case has also served as evidence of a correlation between rebellious black locals in the United States and the example of the Haitian Revolution.[12] This essay brings together these perspectives on politics with a careful examination of the legal culture that set the terms and gave structure to this conflict between slaves and slaveholders. In this story of slavery and law, both local and Atlantic world forces determined the life stories of enslaved people and the parameters of the legal cultures that sought to regulate their status.

Atlantic world dynamics in United States port cities have been explained through various registers of inquiry: empire, constitution-making, antislavery movements, political economy, high court decisions, and biography.[13] This essay complements this work by explaining a similarly expansive terrain—changes across the Atlantic world's time, space, and jurisdiction—but through a more intimate lens, that of the history of a household. This approach complements histories that examine the jurisdictional distinctions between slaveholding colonies and their continental metropoles.[14] It also builds upon fundamental insights into the study of slavery in the United States. Ira Berlin, in his field-defining article "Time, Space, and

11. Paul A. Gilje, *The Road to Mobocracy: Popular Disorder in New York City, 1763–1834* (Chapel Hill: University of North Carolina Press, 1987), 147–50; Paul A. Gilje, *Liberty on the Waterfront: American Maritime Culture in the Age of Revolution* (Philadelphia: University of Pennsylvania Press, 2004,) 147; White, *Somewhat More Independent*, 144–45; Shane White, *Stories of Freedom in Black New York* (Cambridge, Mass.: Harvard University Press, 2002,) 27–28; and Harris, *In the Shadow of Slavery* 92, 103.

12. Ashli White, "The Politics of 'French Negroes' in the United States," *Historical Reflections* 29 (2003): 118.

13. See, for example, John H. Elliott, *Empires of the Atlantic World: Britain and Spain in America, 1492–1830* (New Haven: Yale University Press, 2007); Mary Sarah Bilder, *The Transatlantic Constitution: Colonial Legal Culture and the Empire* (Harvard University Press, 2004); Daniel J. Hulsebosch, *Constituting Empire: New York and the Transformation of Constitutionalism in the Atlantic World, 1664–1830* (Chapel Hill: University of North Carolina Press, 2005); Christopher L. Brown, *Moral Capital: Foundations of British Abolitionism* (Chapel Hill: University of North Carolina Press, 2006); Ira Berlin, *Generations of Captivity: A History of African-American Slaves* (Cambridge, MA: Harvard University Press, 2003); Sue Peabody, "'Free Upon Higher Ground': Saint-Domingue Slaves' Suits for Freedom in U.S. Courts, 1792–1830," in *The World of the Haitian Revolution*, ed. David P. Geggus and Norman Fiering (Bloomington: Indiana University Press, 2009), 261–83; and, Arthur Jones, *Pierre Toussaint: A Biography* (New York: Doubleday, 2003).

14. For France, see, Sue Peabody, *"There Are No Slaves in France": The Political Culture of Race and Slavery in the Ancien Regime* (Oxford University Press, 1996). On the British empire and *Somerset's Case*, see, David Brion Davis, *The Problem of Slavery in the Age of Revolution, 1779–1823* (New York: Oxford University Press, 1999), 470–520.

the Evolution of Afro-American Society on British Mainland North America," cautioned against generalizations about slavery in the United States, insisting instead that attention to regional distinctions were critical to explaining African-American culture.[15] Here, I suggest that for questions about slavery and law, a similar sort of attention must be paid to the distinctions among and between jurisdictional regimes. These conflicts shaped the problem of slavery and freedom for those enslaved people whose lives were also lived along lines of commercial, political, and military exchange. In New York, this jurisdictional character included a complex matrix of courts, attorneys, and reformers that enslaved people navigated. The roles played by elite lawyers ensured that this story of slavery and law helped define the identity of New York's legal culture. Still, it would take nearly twenty years and a change of jurisdiction for the case to reach a decision. And even with the seeming finality of a high court ruling, questions remained about who was a slave and who was free in the Volunbrun household.

The Atlantic World of New York Legal Culture

In New York, the presence of black Dominguans introduced new questions about the juridical dimensions of slavery and freedom. The state's efforts to develop its own set of rules and rituals were intruded upon as the migration of black French bodies brought with it the corpus of French law. Could legal culture, through legislatures, courts, and the local legal elite manage the challenge?

The geographic lines of the state had been resolved only recently. It was in 1791, with the admission of Vermont as a state, that New York's northwestern border was settled. Since 1749, New York and New Hampshire had been locked in a dispute over which colony (and later, state) controlled what were termed the "New Hampshire Grants," land parcels west of the Connecticut River. Only after Vermont paid out $30,000 to New York, did the state drop its claim to jurisdiction over the territory.[16] With its metes and bounds settled, New York still faced the challenge of giving lived meaning to such

15. Ira Berlin, "Time, Space, and the Evolution of Afro-American Society on British Mainland North America," *American Historical Review* 85 (1980): 44–80.

16. On the recognition of Vermont's statehood and the settling of the New York–New Hampshire dispute, see, Fritz Christian, *American Sovereigns: The People and America's Constitutional Tradition Before the Civil War* (New York: Cambridge University Press, 2007.)

lines. Its territorial jurisdiction was still largely imagined, prescribed by political elites by way of maps, surveys, censuses, and the establishment of neighboring states.[17] What would distinguish the territory east of the Connecticut River, or adjacent to the Lower New York Bay, was still being determined. Slavery helped give meaning to territorial jurisdictions. From as early as 1777, when Connecticut abolished slavery as a juridical institution, the individual states distinguished their regimes through structures of law including the law of slavery. This was a fragile construction. While the notions of jurisdiction sought to define and fix boundaries, enslaved people challenged the clarity and the immutability of such distinctions. New Yorkers faced constant challenges to their jurisdiction, their dominion over their territory by law, as slaves entered the state from New Jersey and Delaware, from Maryland and Saint-Domingue, bringing with them histories that were bound up with rules intended to govern space on the other side of the state's jurisdictional line.

Arriving in the port of New York, the widow Volunbrun had reason to be insecure about her right to claim property in persons. The state was undergoing a gradual but potent series of changes that aimed at severely constraining property rights in human beings. In 1785, the state legislature had, in essence, banned the slave trade in New York, passing an act that forbade owners from selling slaves imported into the state out of state at a later time. The law aimed to prevent owners from participating in lucrative Southern and Caribbean markets.[18] In 1799, just two years after the Volunbrun household arrived in New York, the state passed a gradual abolition act. Under its terms, all children born to enslaved women after July 4, 1799 were to be free. Men would remain in service to their masters until

17. Historians of colonial North America have explained the emergence of territorial jurisdiction through confrontations among Native Americans, colonial authorities, and Europe's imperial leadership. Katherine A. Hermes, "Jurisdiction in the Colonial Northeast: Algonquian, English and French Governance," *American Journal of Legal History* 43 (1999): 52–73; and Lisa Ford, "Empire and Order on the Colonial Frontier of Georgia and New South Wales," *Itinerario* 30 (2006): 95–113. Dan Hulsebosch explains the emergence of New York's distinct legal space in the period of Volunbrun dispute. Daniel J. Hulsebosch, *Constituting Empire: New York and the Transformation of Constitutionalism in the Atlantic World, 1664-1830* (Chapel Hill: University of North Carolina Press, 2005). On the construction of territorial jurisdictions see Richard T. Ford, "Law's Territory (A History of Jurisdiction)" *Michigan Law Review* 97 (1999): 843–930. See also, Robert D. Sack, *Human Territoriality: Its Theory and History* (Cambridge: Cambridge University Press, 1986); and Jacques Revel, "Knowledge of the Territory," *Science in Context* 4 (1991): 133–62.

18. New York (State), *Law of the State of New-York, Passed by the Legislature of Said State, at Their Last Meeting of the Eighth Session* (New York: Samuel Loudon, printer to the state, 1785), 61, et seq. Harris, *In the Shadow of Slavery*, 62.

the age of twenty-eight, and women until twenty-five.[19] New York law offered no straightforward answers to questions about who among people of African descent would be slaves and who among them would become free.

New York's dominion over its territory in law faced regular challenges as slaves entered the state from New Jersey and Delaware, from Maryland and Saint-Domingue, bringing with them histories that were bound up with rules intended to govern space on the other side of the state's jurisdictional line. In response, New York attempted to impose a framework through which questions, such as those about the widow Volunbrun's slaves, should have been resolved. The result was a 1788 slave code titled, "An ACT concerning Slaves." Its purpose was twofold, first to affirm that slavery remained a legal institution in the state, and second to revise and bring together existing law into one legislative scheme. There were sixteen provisions. For example, slavery in New York was defined as heritable—children following the condition of their mothers. Manumission was only allowed by the means prescribed by law—baptism could not confer freedom, and bond requirements discouraged slaveholders from freeing "old or decrepit" people (the latter rules were among the code's most complex provisions.) New Yorkers generally were barred from trading with slaves, selling them rum, and harboring or carrying them away without an owner's consent. The code also addressed the juridical personhood of enslaved people. They were to be speedily prosecuted for striking a white person, to be tried by jury in capital cases, and barred from giving evidence, except in criminal cases against other slaves. Most pertinent to the matter of the widow Volunbrun's slaves were prohibitions against the movement of slaves into and out of New York. No longer could slaves be brought into the state for the purpose of sale. Nor could slaves purchased or otherwise transferred within New York subsequently be removed from the state for the purpose of sale. In both cases, penalties included a fine and the freedom of the slaves in question.[20]

Some searched for an answer within this legislative scheme about the status of those the widow held as slaves. Manumission Society activists clearly hoped that the prohibition against the "exportation of slaves" could be used to thwart the widow and secure freedom for those she planned to transport to Virginia. The widow appeared to be among those the legislature intended to sanction, particularly if she intended to sell

19. "An ACT for the gradual abolition of Slavery," in *Laws of the State of New-York, Passed at the Twenty-Second Session, Second Meeting of the Legislature Begun … the Second Day of January, 1799* (Albany: Loring Andrews, 1799). White, *Somewhat More Independent*, 38.

20. New York (State), *Laws of the State of New-York, Passed by the Legislature of Said State, at Their Eleventh Session* (New York: Samuel Loudon, printer to the state, 1788). 75–77. An ACT concerning Slaves, passed February 22, 1788.

her slaves after arriving in the South. But one aspect of the Volunbrun case distinguished it from the statutory scheme, and from all other such Manumission Society cases that preceded it. The law only prohibited the exportation for sale of those New York slaves who had been bought or otherwise acquired with the intent of selling them outside of the state. A slaveholder who had acquired slaves for the purposes of agricultural and domestic work in Saint-Domingue and then imported such slaves to New York (arguably) to secure them from the vagaries of war did not fit squarely into the law's provisions. State lawmakers had not wholly anticipated how the juridical wrinkles of the Atlantic migrations of slaves and slaveholders would test the bounds of a local code.

The principal attorneys in the Volunbrun case certainly understood the implications of the crossing of jurisdictional boundaries for the law of slavery. They were elite men made familiar with the complexities of slavery and freedom in their homes, in legislatures, and in local courthouses. Brockholst Livingston, attorney for Volunbrun and Cléry, was a spirited Republican Party activist whose legal career had begun in association with Alexander Hamilton and led to his service in the New York State Assembly in the late 1780s.[21] Shortly after the Volunbrun case, the Party put Livingston on the bench, first on the State Supreme Court of New York and then the United States Supreme Court.[22] Peter Jay Munro served the Manumission Society, providing legal opinions and representation to the leadership.[23] His career began in the law office of Aaron Burr. Later, Munro served as a delegate to the 1821 New York State Constitutional Convention.[24] The lives of Livingston and Munro had been intertwined for decades in the household of John and Sarah

21. In at least one case, Hamilton and Livingston represented a New York slave trader in an insurance claim. See *Vandenheuvel v. The United Insurance Company* (Supreme Court of Judicature of New York, 1800) 2 Johns. Cas. 127.

22. Brockholst Livingston was descended from the highly influential New York Livingston clan, although his father became the first governor the neighboring state of New Jersey. Michael B. Dougan. "Livingston, Brockholst"; *American National Biography Online* (2002) http://www.anb.org.proxy.lib.umich.edu/articles/11/11-00532.html (March 7, 2008). The 1800 United States Census reports Livingston as living in New York City's First Ward, heading a household of fourteen, including three free black people and one slave. 1800 United States Census; New York, New York, First Ward. http://www.ancestry.com (March 7, 2008).

23. Among such cases were *Covenhoven v. Seaman, et al.* (Supreme Court of Judicature of New York, 1799) 1 Johns. Cas. 23; *Fish v. Fisher*, (Supreme Court of Judicature of New York, 1800) 2 Johns. Cas. 89; and, *Sable v. Hitchcock*, (Supreme Court of Judicature of New York, 1800) 2 Johns. Cas. 79.

24. Louise V. North, "The 'Amiable' Children of John and Sarah Livingston Jay," Unpublished conference paper (New York: Columbia University and the N-YHS, 2004) http://www.columbia.edu/cu/lweb/symposia/john_jay/pdf/North.pdf

Livingston Jay. Brockholst Livingston was Sarah Jay's brother, whereas Peter Jay Munro was John Jay's nephew who was raised in the home of his aunt and uncle.[25]

In 1779, both accompanied the Jays to Europe; John Jay had been selected United States Representative to Spain. Livingston was Jay's personal secretary, while Munro travelled as Sarah Jay's "son." Travelling with the Jays, both young men learned the everyday differences among Atlantic world slave systems. Both had been born into New York slaveholding families and later became slaveholders pursuant to state law.[26] During their voyage to Europe, the household stopped in Martinique. There, the young men observed an open market in slaves, a practice that had disappeared from the streets of New York. John Jay purchased a slave, a young man of fifteen named Benoit. The lessons continued when the Jay household moved from Spain to France in 1782.[27] They set up housekeeping in the village of Passy, just outside of Paris. In their party was Abigail, an enslaved woman who had accompanied them from the United States. In France, Abigail grew dissatisfied, ran away, only to be arrested and held in a local jail. After some weeks, Munro persuaded Abigail to return to the Jays; she fell ill and tragically died shortly thereafter.[28] Here was a vivid lesson about the problem of slavery across time, space, and jurisdiction. In Passy, local courts were unlikely to bind Abigail to the Jay family as a slave. More likely, she would have been declared a free person had the matter come before an official.[29] Their

25. Munro was the son of Jay's sister, Eva Jay Munro, whose Scotland-born, loyalist husband, the Rev. Harry Munro, abandoned the two in 1777 when he left New York State for England. "Memoir of the Rev. Dr. Harry Munro, The Last Rector of St. Peter's Church, Albany, under the English Crown," *New York Genealogical and Biographical Record* 4, no. 3 (July 1873):113–24.

26. The Jay family had been one of New York's largest slaveholding families earlier in the century as had been the Livingstons. Roberta Singer, "The Livingstons as Slaveholders," in *The Livingston Legacy: Three Centuries of American History*, eds. Richart T. Wiles and Andrea K. Zimmermann (Annandale-on-Hudson, N.Y.: Bard College, 1987), 67–97.

27. Livingston and Jay would have a falling out, leading Livingston to return to the United States in 1782 (at which time he was captured and temporarily held by the British.) Their rift inaugurated what became sharp political differences between the two in the decades that followed. But Munro remained with the Jays, travelling with them to France when Benjamin Franklin called upon Jay to assist in peace negotiations with the British.

28. Daniel C. Littlefield, "John Jay, the Revolutionary Generation, and Slavery," *New York History* 81 (2000): 91–132, 128–30.

29. Peabody, *"There Are No Slaves in France*" I thank Peabody for clarifying that Abigail should have never been allowed into France and by positive law (the 1777 Police des Noirs), she should have been confiscated as the king's property and sold "to the colonies," probably one in the French Antilles. I also thank Pierre Boule for his guidance in my research into Abigail's case in France. By the 1780s, however, the Admiralty Court of Paris was no longer

migration from New York to Passy transformed the terms by which Munro and Abigail confronted one another.

By 1785, both Livingston and Munro were back in New York beginning their legal careers. Slavery shaped their lives as members of old slaveholding families. Slavery animated the political circles in which they jockeyed for power. Slavery was also part of day-to-day existence in New York legal culture. More than fifteen years later, as adversaries in the Volunbrun case, they worked from shared memories of "French" slave trading and "French" slaves. Livingston and Munro shared professional interests as members of the state's highly regarded legal elite.[30] Each man's standing in the profession was built in notable part upon his abilities to assist slaveholders, slaves, and the latter's allies to navigate the complex legal terrain of slavery. And although they may have disagreed on the merits of any given case, both Livingston and Munro embodied the view that legal culture was the best forum for settling such disputes. Moreover, each of these young advocates helped to give New York State its distinct legal identity. Their work gave meaning to the abstractions of territorial jurisdiction. By their work in the Volunbrun case, we see how New York the location became a jurisdiction.

When it came time to make their cases, Livingston and Munro and their allies turned not to local courts, but to local newspapers. Other than that the proclamation existed, there was little about France's 1794 abolition decree that was an indisputable fact in 1801.[31] When challenged about the very existence of the decree, a Manumission Society advocate, writing under

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enforcing the Police des Noirs (in flagrant disregard of the Ministry of the Marine), such that if Abigail had petitioned for her freedom in Passy, she would likely have received an *arrêt* by the court affirming her free status.

30. Milton M. Klein, "From Community to Status: The Development of the Legal Profession in Colonial New York," *Business & Enterprise in Early New York* (1979): 166–95; Gregory Afinogenov, "Lawyers and Politics in Eighteenth-Century New York," *New York History* 89 (2008): 142–162; and Henry J. Abraham, "President Jefferson's' Three Appointments to the Supreme Court of the United States: 1804, 1807, and 1807," *Journal of Supreme Court History* 31 (2006): 141–54; Raymond A. Mohn, "Poverty, Politics, and the Mechanics of New York city, 1803," *Labor History* 12 (1971): 38–51; Grant Lyons, "Louisiana and the Livingston Criminal Codes," *Louisiana History* 15 (1974): 243–72; Alexander Hamilton, *The Law Practice of Alexander Hamilton: Documents and Commentary*, 5 vols., eds. Julius Goebel, Francis K. Decker, Jr., Joseph Henry Smith and Winnifred Bowers (New York: Columbia University Press, 1964–1981); and William R. Casto, *The Supreme Court in the Early Republic: The Chief Justiceships of John Jay and Oliver Ellsworth* (Columbia: University of South Carolina Press, 1995.)

31. For one view of the political events leading to France's 1793–94 abolition of slavery see Jeremy D. Popkin, *You Are All Free: The Haitian Revolution and the Abolition of Slavery* (New York: Cambridge University Press, 2010).

the assumed name "A Friend to Justice," provided a text dated February 1794 and signed by "colonial Commissioners Santhonax [sic] and Raimond."[32] But the document's authenticity was questionable. Julian Raimond had not been a party to the abolition decrees issued by Léger-Félicité Sonthonax and Etienne Polverel. Volunbrun's advocates picked up on this uncertainty and the argument continued over the course of two weeks. "A Friend to Order" argued that whereas legislators in the métropole might have issued such a decree, there was no evidence that it had been "registered and promulgated" in Saint-Domingue, thereby rendering the decree "inoperative" in the colony.[33] Volunbrun's allies explained that the 1794 abolition decree had been a military tactic, an expedient that the French had hoped would aid their defense against the British. Never had the National Convention intended to confer "absolute, immediate, unlimited freedom" upon the slaves of Saint-Domingue. The cases of Martinique, Guadeloupe, and Cayenne (French Guiana) demonstrated that the 1794 decree had never been generally implemented. But the crowning example was that of Saint-Domingue. In that "rather independent place. . .under the command of the BLACK General Touissaint [sic]" black people were still bound to the land and to the work of cultivating it. Both Sonthonax's early decree and Louverture's 1801 constitution commanded "Negroes" to work under threat of severe punishment. Was that the abolition of slavery? A Friend to Order argued that it was not.[34]

From this perspective, New York's legal culture appeared robust. Public debate heightened its visibility and authority. And neither Livingston nor Munro appeared concerned that full consideration of France's abolition threatened the local legal order. New York became juridically cognizable as judges, attorneys, reformers, slaves, free black people, and New Yorkers generally learned what their state boundaries meant. New York was distinct from its neighboring states just as it was distinct from France.

Trans-Atlantic Anti-Slavery in New York Harbor

Activists with the New York Manumission Society meshed political interests with legal claims as they advocated on behalf of the Volunbrun slaves. The Society had been founded in 1785 by Quaker antislavery activists and

32. A Friend to Justice, "For the Gazette," *New-York Gazette*, August 24, 1801, 2.

33. A Friend to Order, "For the Gazette. To the Friend of Justice," *New-York Gazette*, September 5, 1801, 2.

34. A Friend to Order, "For this Gazette," *New-York Gazette*, September 13, 1801, 2.

prominent Federalist political leaders, including John Jay and Alexander Hamilton. By 1801 the Society had attracted a broader cross section of men who understood themselves to be humanitarians motivated by a cultural optimism.[35] For the Society, this moment arose, in a sense, at the culmination of many years spent observing the French position on slavery and abolition. During its first decade of operation, the Society had evidenced a modest appreciation for the French example. But by the end of the 1790s, Society members singled out the French, branding them the worst of New York's illicit slave traders. The matter of the widow Volunbrun's slaves presented the Society with a vivid opportunity to make their case against white French slave traders.[36]

The Society's work of law reform and enforcement was generally local in character. Still, from the outset, the Society was associated with a network of antislavery activists. Its leadership followed allied work in cities such as Boston, and sustained a regular exchange with Pennsylvania Anti-Slavery Society leaders in Philadelphia. This network also had trans-Atlantic connections. The Standing Committee fielded inquiries from London's antislavery activists, while following with great interest the work of British allies Thomas Clarkson and Granville Sharp.[37] French antislavery activists were also part of this network through a "federal relation and mutual correspondence" with the Paris-based La Société des Amis des Noirs, and the admittance of French officials posted in New York as members.[38] Nothing in the somewhat summary record of these alliances suggests that they were anything less than collegial.

Even the outbreak of revolution in Saint-Domingue does not appear to have led New York activists to rethink relations with their French allies. Without comment, the Society received copies of a 1792 pamphlet "An inquiry into the causes of the Insurrection in St Domingo" by Jean-Philippe Garran-Coulon, the product of an official inquiry. Society members thereby learned how at least some of those weighing in before the French National Assembly had defended slave insurgents as justified

35. David N. Gellman, *Emancipating New York: The Politics of Slavery and Freedom, 1777–1827* (Baton Rouge: Louisiana State University Press, 2006), 154–55.

36. On first-wave abolition societies generally see, Richard S. Newman, *The Transformation of American Abolitionism: Fighting Slavery in the Early Republic* (Chapel Hill: University of North Carolina press, 2002), and on the New York Manumission Society, see Gellman, *Emancipating New York.*

37. Sharp was a correspondent to the Society in the years before 1801. NYMS Standing Committee Minutes, May 21, 1789, May 12, 1785, November 15, 1787. NYMS Papers, N-YHS.

38. NYMS Standing Committee Minutes, August 11, 1785, May 15, 1788. NYMS Papers, N-YHS.

in their opposition to slaveholders and to the government that maintained the latter's authority.[39] If this or other reports on the Haitian Revolution raised concerns about continued French alliances, they were never voiced during formal proceedings.[40] Individuals labeled "French" slaveholders were occasionally the subject of Society interventions, but the treatment of such cases did not differ from the numerous others prosecuted by the Society through 1794.[41]

In 1795, the Society's attitudes toward the French began to shift. They were less likely to see the French as activist allies and increasingly saw them as the holders of and traders in slaves. That January, during a meeting of the "Convention of Delegates from Abolition Societies" in Philadelphia, New York's antislavery activists heard how France had decreed the abolition of slavery in its colonies.[42] During that meeting, delegates resolved that each local society would launch "an inquiry into the situation of those blacks and people of colour who have been brought hither by Emigrants from the French Territories and are still held as slaves. . .."[43] The Society did not abate in its "interferences" with cases involving slaves from other "foreign" jurisdictions, such as New Jersey. But cases against slaveholders termed "French" began to appear on the docket with increased frequency. Armed with a new focus and a new weapon, New York City's manumission activists reported an increasing number of confrontations with slaveholders from Saint-Domingue, Martinique, and Guadeloupe. The tone of these encounters remained true to the Society's long-standing demeanor; they were rational and even handed.[44]

The number of such cases increased during 1797 and 1798. The rights of slaveholders with French surnames were examined. Black migrants from Saint-Domingue and the "West India Islands" benefitted from the

39. The pamphlet referred to was *An Inquiry Into the Causes of the Insurrection of the Negroes in the Island of St. Domingo* (Philadelphia, London: Joseph Cruikshank, 1792). For a discussion of this text, see, Laurent Dubois, *Avengers of the New World: The Story of the Haitian Revolution* (Cambridge, MA: Harvard University Press, 2004), 105–8.

40. NYMS Standing Committee Minutes, August 21, 1792. NYMS Papers, N-YHS.

41. Ibid., March 7, 1794. The same committee reported on the case of the "Black Woman" said to have been sold by a "French Woman" that "upon enquiry they find the said Wench has been returned to her first mistress she having a husband absent, the Validity of the Sale was Questionable and made Null. . .." Ibid., August 12, 1794.

42. Ibid., June 23, 1875.

43. Ibid., June 2, 1795.

44. Ibid., August 13, 1795, April 5, 1796. Munro had represented the Manumission Society in a number of proceedings including *Sable v. Hitchcock, Fish v. Fisher*, and *The People, ex rel. Allaire v. The Judges of Westchester*, 2 Johns. Cas. 118. (Supreme Court of Judicature of New York, 1800).

Society's careful scrutiny.[45] Was the society subjecting French slaveholders to a sort of hypervigilance? Perhaps. At a minimum, society leaders appear to have incorporated the potential juridical power of France's abolition into their agenda. Perhaps some questioned this policy. During a September 1797 meeting, the President "laid before the Society an authenticated copy of the decree of the French Republic against slavery."[46] Doubters might be reassured by the presentation of the authenticated decree, and naysayers too might pause in the face of confirmation that France had taken such a far-reaching step. It remained to be seen however how the decree would actually shape the fates of New York's "French Negroes," if at all.

By summer 1799, society members aggressively monitored and interceded in the conduct of French slave holders. They did not wholly dispense with rational, law-bound tactics. But Society activists also took up new, provocative strategies. Members shared tales of lying in wait on the waterfront, boarding anchored vessels under cover of night, and seizing individuals without a court order. Their rhetoric also changed. "Certain Frenchmen" they charged, were guilty of the "general" practice of shipping "Negroes" to the Southern states and then to the "West Indies," where they were to be resold in contravention of law. This was slave trading in the eyes of Society activists, and the contempt they held for those they deemed French kidnappers leaps off the pages of their meeting minutes.

Society members reported upon elaborate wrangling with such offenders, and their travails fill the minute books. A case in point was that which occurred in April 1800. The Standing Committee chairman received word that "a number of black people" were confined in a house in Pearl Street by "certain Frenchmen," who planned to ship their captives first to Norfolk or Savannah and then to the West Indies. By the following day, a second rumor emerged: those from the house on Pearl Street were on board a nearby schooner. A few days passed, and when what was believed to be the same schooner was spotted off Corlears Hook, the chairman leapt to action. He gathered a local alderman, three Society members, and two citizens and proceeded to board the vessel. It was, it turned out, the wrong vessel. But the chairman's instincts were affirmed when the boarding party discovered three black people locked in the hold. This incident and others like it were recounted as episodes of high drama and subterfuge rather than as rational inquiry, all seemingly motivated by a special animus for contemptible French slaveholders.[47]

45. NYMS Standing Committee Minutes, March 23, 1797, June 8, 1797, June 22, 1797, July 20, 1798. NYMS Papers, N-YHS.

46. Ibid., September 17, 1797.

47. Ibid., April 25, 1800.

There were many such incidents in the years from 1799 to 1801 that drew Society members into dramatic webs of illicit dealings.[48] In the same April 1800 case, the chairman's investigation gave him an insider's vantage point on every twist and turn that led up to his dramatic shipboard rescue. He related how the Frenchmen in question, Mongier and Allaird, had purchased the ship and then repainted it to hide its purpose, and how the captain had lurked along the shore for days as four black people were put on board under cover of night. Each had been variously duped. For example, one young boy was promised a parrot that was kept on board. The whites involved—the French traders and the ship's captain and crew—had conspired, inventing a story about how they were bound for upstate New York or Long Island, not the South. The chairman had the distinct duty, or perhaps it was the distinct pleasure, to recount these matters in great detail, and his actions were affirmed by the Standing Committee, which authorized the prosecution of Mongier, Allaird, and John Troup, an accomplice.[49] Other Standing Members reported similar triumphs. On several occasions their "interference" had caused "certain Frenchmen" to leave the port "without accomplishing their views."[50]

Therefore, as the Volunbrun household prepared for its journey to Virginia, stark battle lines were already drawn. Perhaps a member of the household or one of their free black acquaintances first brought their circumstance to the attention of the Manumission Society. Or perhaps it was a Society member's initiative that brought on the subsequent confrontation. Whatever the origins of the case, it is clear that each side faced the other already armed with well-developed narratives about contemptible French slave traders and overreaching Manumission Society zealots. There were writs yet to be filed, public pleas yet to be printed, and there would also be the matter of free black New Yorkers who would also stake out a position in the dispute. But the controversy that engulfed those the widow held as slaves had been brewing in New York's legal circles as well as in its streets, alleys, and water's edge long before the confrontations of August 1801.

This story of Manumission Society–French relations is not wholly self explanatory, however. Still unanswered is a question about how it was that the Society's view of French slaveholders had taken such a harsh turn by 1799. Manumission Society members explained their increasing focus on the French with a seemingly straightforward rationale: The French flagrantly flouted state law and the laws of France, trading of slaves

48. Ibid., June 10, 1800, June 26, 1799, July 20, 1801, July 28, 1801, August 28, 1801.
49. Ibid., April 25, 1800.
50. Ibid., August 22, 1800.

to the South and the Caribbean, despite sustained efforts by the Society to curb this practice. The French were portrayed as the worst of the city's offenders. But "Worse than whom?" we might ask. The Manumission Society's own records demonstrate that the French were not alone in their seeming disregard for laws against the trade. Particularly after the passage of New York's Gradual Abolition Act in 1799, slaveholders from New Jersey and upstate New York counties were more likely than the "French" to be engaged in slave trading. Still, there appears to be more to the zeal with which the Society pursued French slaveholders.

The Manumission Society's animus for the "French" coincides with a more general "Francophobia" that consumed many people in the United States in the late 1790s and reached its peak by the summer of 1798. Thomas Sosnowksi and Vaughn Baker explain that French émigrés to the United States generally encountered pointed nativism in the last years of the eighteenth century. Having once been regarded with admiration, fraternity, and compassion, French émigrés began to write about hostility leveled at them from many corners throughout United States port cities.[51] The cause was the tension generated by the XYZ Affair, the Quasi-War of 1798, and the overall breakdown of United States–French diplomatic relations. After scores of United States ships had been seized by the French on the open sea, United States leaders dispatched a peace delegation. An investigation into the diplomatic mission's subsequent failure revealed that French officials had suggested that cash payments and loans might pave the way for a diplomatic exchange. United States officials read in these disclosures insults and threats to the nation's sovereignty. Already strained relations between the two nations were severed. For two years, United States and French ships battled at sea even though there had been no formal declaration of war.[52] Thomas Ray explains that outrage over the XYZ Affair extended well beyond political and diplomatic circles. The incident generated an anti-French reaction in the streets of United States cities during the summer of 1798. United States residents took to the streets singing patriotic songs, wearing black rather than

51. Thomas Sosnowski and Vaughn Baker, "Bitter Farewells: Francophobia and the French Émigrés in America," *Consortium on Revolutionary Europe, 1750–1850: Selected Papers 1998* 21 (1992): 276–83; 294–97.

52. On the XYZ Affair and the Quasi-War generally, see, Alexander DeConde, *The Quasi-War: The Politics and Diplomacy of the Undeclared Naval War with France, 1797–1801* (New York: Charles Scribner's Sons, 1966). For a very fine discussion of the evolution of United States–French diplomatic relations in the 1790s and the consequences for the construction of an American national identity, see, Matthew Rainbow Hale, "'Many Who Wandered in Darkness': The Contest Over American Identity, 1795–1978," *Early American Studies* 1 (2003): 127–175.

tricolored cockades, forming volunteer militias and private patrols, donating money to the United States navy, and attending mass meetings at which they pledged their support for the federal government and President John Adams. In New York, local residents barricaded the city against invasion by the French.[53] The tenor generated by the XYZ Affair paralleled the tone of Manumission Society discussions of the French. Members never made reference to diplomatic breaches or fears of war, but they appear to have shared in what historians recognize as a strongly held Francophobia. This was the climate that the Volunbrun household confronted in New York and explains the anti-French animus that, in part, motivated the targeting of the widow's household.

French Negroes in the Seventh Ward

The crowd that gathered around the widow's home on Eagle Street in August 1801 has been regarded as evidence of an emerging African-American political culture, one that was increasingly autonomous and confrontational on questions of slavery and rights. These were not however "African-Americans" at least to the extent that this phrase is intended to connote a group of creole or U.S.-born people of African descent, or to the extent that the phrase suggests that these were people both "American," in the North American sense, and "African." Instead, the black people in the crowd were by all accounts "French." This was, however, no straightforward designation of national origin.

The label "French Negro" was by 1801 not a casual denomination. Instead, it explicitly linked the dynamics in United States port cities to the French Caribbean, straining legal culture's capacity to regulate slavery and freedom. Ashli White explains that white Americans intended this label to suggest that black refugees from Saint-Domingue posed a "dual threat" to the nation. Not only were they inclined to foment rebellion, they also threatened to corrupt the character of U.S.-born black people.[54]

53. Thomas M. Ray, "'Not One Cent for Tribute': The Public Addresses and American Popular Reaction to the XYZ Affair, 1798-1799," *Journal of the Early Republic* 32 (1983): 389–412.

54. For a discussion of white fears of black refugees, see, Ashli White, "The Contagion of Rebellion," in *Encountering Revolution: Haiti and the Making of the Early American Republic* (Baltimore: Johns Hopkins University Press, 2010), 124–65. Lacy Ford makes a similar argument in *Deliver Us from Evil: The Slavery Question in the Old South* (New York: Oxford University Press, 2009). A growing literature exists on Saint-Domingue's nonwhite refugees to the United States. Gary B. Nash explains some of the demographic character of enslaved refugees in "Reverberations of Haiti in the

Reports of what transpired outside the widow Volunbrun's house reflected these stereotypes. Witnesses and the local press invoked the Haitian revolution's stock imagery – arson and the massacre of whites—reporting that the crowd threatened "to burn the said Volunbrun's house" and "murder all the white people in it."[55] To understand what led this group of men to assemble on Eagle Street, we should note that they were not the only "French Negroes" on the scene during that August evening. Inside the widow's residence were reported to be twenty-three additional "French Negroes," those claimed by Volunbrun as slaves. Commentators on all sides were very careful never to brand them as such, however, because to do so would have been to undermine the arguments on both sides. It might prove difficult to defend the rights of a slaveholder who was harboring subversive Africans in her home. It might also prove problematic to advocate for the freedom of "French Negroes" who might undermine the city's peace.

Still, two groups of "French Negroes"—one inside and another outside 100 Eagle Street –were bound to one another through a range of affinities. They were neighbors, all living day-to-day on the streets of the city's relatively remote, northeastern Seventh Ward.[56] Perhaps these black refugees from Saint-Domingue recognized one another by their style of adornment, language, and in many cases the marks upon their bodies. (Unlike in the United States, branding was widely practiced in Saint-Domingue and some among the widow Volunbrun's slaves carried her initials "DDV" on their breasts.) The crowd that surrounded the widow's home did so, in part, because those inside were their neighbors, friends, and, perhaps, loved ones. Theirs were affinities borne out of shared history, language, culture, and the patterns of urban living.

American North: Black Saint Dominguans in Philadelphia," *Pennsylvania History* 65 (Supplement) (1998): 44–73., whereas John Davies focuses on free, elite refuges of color in "Saint-Dominguan Refugees of African Descent and the Forging of Ethnic Identity in Early National Philadelphia," *The Pennsylvania Magazine of History and Biography* 134 (2010): 109–26. On the legal complexities faced by Saint-Domingue's enslaved refugees, see, Rebecca J. Scott, "'She. . .Refuses to Deliver Up Herself as the Slave of Your Petitioner': Émigrés, Enslavement, and the 1808 Louisiana Digest of the Civil Laws," *Tulane European and Civil Law Forum* 24 (2009): 115–36; and Rebecca J. Scott, "Public Rights and Private Commerce: A Nineteenth-Century Atlantic Creole Itinerary," *Current Anthropology* (2007): 237–56.

55. Deposition of John Marie Garvaise. August 11,1801, *The People v. Marcelle, Sam, et al.*; and A Friend to Order, "Citizens of New-York," *New-York Gazette*, September 1, 1801, 2.

56. The District Attorney's Indictment record noted that all of the twenty-three men prosecuted lived in the Seventh Ward and were employed as laborers, *The People v. Marcelle, Sam, et al*.

In the District Attorney's record are some clues about who these "French Negroes" were and why they gathered outside the home of the widow Volunbrun: their names. These names come to us by the hand of a courthouse clerk who took part in the process of naming. Here, these men become more than an undifferentiated group of free French Negroes. Of the twenty-three accused, seven were identified by one name, usually a Christian or first name, whereas the remaining others were designated by two names. These names provide clues about what precipitated the Eagle Street confrontation and suggest the dynamics that were transforming former slaves into free men and former French subjects into Americans of a subordinate class in New York City.

To the extent that some of those prosecuted were recorded by the court as having only one name, this was a widespread practice that likely marked individuals as former slaves. Trial court records regularly noted free black litigants by only one, first name. Such was the case of *In re Tom a Negro Man*, in which the plaintiff won his freedom suit based upon a pre-existing manumission certificate. What is noteworthy is that, despite being party to a court proceeding significant enough to generate a decision and despite the existence of a valid certificate of manumission, the plaintiff, a former slave, turned free man, was identified by only one name "Tom."[57] New York law did not regulate the names of former slaves, nor did it designate the processes by which free people of color might acquire names during or subsequent to their manumission.[58] Custom does appear to have emerged. Former slaves dispensed with names given by their owners, elevated a diminutive name to its full form, selected surnames that celebrated emancipation and avoided the names of former owners. Ira Berlin concludes that the choosing of a name after emancipation was an act of personal liberation and political defiance.[59]

What of former slaves without surnames or with non-Anglo names, as was the case with New York's "rioters?"[60] When we examine other

57. *In re Tom*, 5 Johns. 365 (Supreme Court of Judicature of New York, 1810). Later examples exist of enslaved people who pursue litigation using two names, for example in the cases of Mima Queen in *Mima Queen v. Hepburn*, 11 U.S. 290 (1813) and Dred Scott in *Dred Scott v. Sandford*, 60 U.S. 393 (1857). Such is not the case in New York during the years of gradual abolition.

58. Regarding slaves and naming in Jamaica, see Trevor Burnard, "Slave Naming patterns: Onomastics and the Taxonomy of Race in Eighteenth-Century Jamaica," *Journal of Interdisciplinary History* 31 (2001): 325–46; in Cuba, see Michael Zeuske, "Hidden Markers, Open Secrets: On Naming, Race-Marking, and Race-Making in Cuba," *New West Indian Guide/Nieue West-Indische Gids* 76 (2002): 211–41.

59. Ira Berlin, *Generations of Captivity: A History of African American Slaves* (Cambridge: Harvard University Press, 2003), 105–6.

60. Neither Berlin nor other scholars who have examined naming customs in the North have commented upon the frequency with which some African-Americans were known

administrative settings and the naming conventions adopted therein, it appears that the court's practice of noting some free black people by one name was not atypical. United States census enumerators denominated six percent of free black New Yorkers by only one name in 1800.[61] Their notations included entries such as "John /a black/" and "Thomas /a mulatto/."[62] Manumission proceedings reflected a similar practice, and historian Harry Yoshpe reports that among early freedom certificates, the majority of slaves were designated by only one name even at the moment of manumission.[63] The designation of some of the 1801 rioters by one name was not merely administrative oversight on the part of a court clerk. They, similarly to many free black New Yorkers, continued to be known only by one, first, name even after manumission.[64] Perhaps some of the men involved in the Volunbrun case were themselves still moving between slavery and freedom, having not yet acquired a second "family"

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by only one name. Nor have they commented upon the significance of adopting non-Anglo American names by former slaves. Much of the attention to slavery and naming in the context of the colonial and early republic United States has focused elsewhere, particularly on the ties between naming practices and the retention of African cultural practices and rituals. See, for example, John Thornton, "Central African Names and African-American Naming Patterns," *William & Mary Quarterly* 50 (1993): 727–42.

61. In 1800, each state provided its enumerators with a standard form or schedule. This form called for the "name of the head of the family." "Measuring America: The Decennial Censuses From 1790 to 2000," United States Census Bureau. United States Marshal (Massachusetts,) "District of Massachusetts, Marshall's Office, Boston, [blank] Sir, Wishing to avail the public of your services. . .." [Boston: s.n., 1800], Early American Imprints, Series 1, no. 49516 (digital supplement, May 7, 2008).

62. In the year 1800, the census data includes 690 black or mulatto heads of household, of which 42 were designated by one name only. In the Seventh Ward, a total of 171 such households were noted, with twelve noted by only one name. There were instances in which white householders were noted by only one name. There were 21 such instances overall in the 1800 census. But white householders when noted as having one name were always noted as having one family or surname. The city directory for the year 1799 is dissimilar. Its delineation of an "alphabetical list of the Heads of Families, etc. in the city of New York" never reports a family head by only one first name. There are, however, many instances in which family heads are reported by something other than a first and second name, for example: "Widow Ackerman," C. Adams," "_____ Barrett," and "Madame Dubois." Longworth's directory did not distinguish between black, colored, and white city residents as did the census. *Longworth's New-York Directory*,147–397.

63. Harry B. Yoshpe, "Record of Slave Manumissions in New York During the Colonial and Early National Periods," *Journal of Negro History* 26 (1941): 78–107.

64. For a perspective on postemancipation naming practices, see Zeuske "Hidden Markers, Open Secrets," 235–66. Zeuske notes that in late-nineteenth century judicial and notarial records individuals names were recorded with the "addendum" s.o.a. (sin otro apellido/without any other surname) or s.s.a. (sin segundo apellido/without second surname). These designations were likely intended to denote individuals as former slaves and/or of African descent.

name such as all free white New Yorkers had. As former slaves, those gathered outside 100 Eagle Street may have understood those held inside the house to share their desire for freedom.

The names tell a second story, one that complicates any simple notion of "French Negroes." Only a small number of those prosecuted for the Volunbrun riot were reported to have discernibly French names. More often they were identified by Anglo, or perhaps more accurately Anglicized names. Intriguing is the name recorded as "John Louis." It is neither the Anglo John Lewis nor the French Jean Louis, but instead a combination of the two, a highly suggestive hybrid French–Anglo name. Here are the faint signs of a process of self-denomination mixed with administrative fiat. "French Negroes" were becoming Anglo-Africans in New York, their identities made and remade by way of Atlantic world migrations and the juridical encounters that attended them.[65]

Perhaps the bonds of community, history, culture, and status sufficiently explain the novel and impassioned efforts made by this group on behalf of those held as slaves. But the timing of the riot provides a powerful suggestion about the politics that also led to the confrontation on Monday evening, August 10. On just the prior Thursday, August 6, news had begun to spread through New York City: Toussaint Louverture, the former slave turned French general, had promulgated a new constitution that declared Saint-Domingue to be independent of France.[66] Local newspapers reported its promulgation with sober elaboration. There were ambiguities embedded in Louverture's constitution, but the document left little question about the future of slavery in Saint-Domingue. If the actions of the French National Convention and Saint-Domingue's colonial administrators had abolished slavery in law but not entirely in practice, Louverture's constitution was unequivocal. Had those who gathered at the house of the widow Volunbrun also heard news of Louverture's constitution and its affirmation of slavery's abolition? This is a question that we will never be able to answer with certainty. But it seems fair to say that news, rumors,

65. On the cultural significance of naming practices and the acquisition of names by former slaves see, on Brazil, Jean Hébrard, "Esclavage et dénomination : imposition et appropriation d'un nom chez les esclaves de la Bahia au XIX^{e} siècle," *Cahiers du Brésil contemporain* 53/54 (2003): 31–92; and, on Saint-Domingue, Dominique Rogers, "Les libres de couleur dans les capitales de Saint-Domingue : fortune, mentalités et intégration à la fin de l'Ancien Régime (1776-178)," thèse de doctorat, Bordeaux, Université Bordeaux III, 1999.

66. Louverture promulgated his constitution for Saint-Domingue in July of 1801, but word of these events does not appear to have reached New York City's newspaper editors until the following month. "Extract of a letter from Cap Francois. . .," *Commercial Advertiser*, August 6, 1801, 1. On Louverture's constitution generally see, Dubois, *Avengers of the New World*, 238–46.

and innuendo about Louverture's constitution, so widely reported in the daily newspapers, had reached the city's "French Negroes."

Whatever we may surmise was in the minds of the crowd, the timing of this confrontation permits us to appreciate the consequences of migrations between juridical regimes for enslaved people. Here are two summer 1801 scenes, each of which includes those once deemed slaves in colonial Saint-Domingue. In Port-au-Prince, those subject to Louverture's constitution were recognized as free persons and citizens.[67] Slavery as heritable, racialized, social death was declared to be ended in the new nation. At the same moment, those who had fled from Saint-Domingue confronted a quite different regime of slavery and freedom. In New York, they had the modest assurances of a gradual abolition scheme that promised freedom only to the children of those once enslaved in Saint-Domingue.

Household Intimacies of Atlantic Proportion

As New York attempted to resolve the status of those in the Volunbrun household, one question of fact predominated: how had this household come into being and who were its members in relation to one another?[68] Were they slaves and slaveholders, servants and masters, slave traders and victims of trespass and kidnapping, or a family? As lawyers, judges, and French consular officials faced this question, they also confronted a story that stretched back into the early years of the Haitian Revolution and to Saint-Domingue's capital, Port-au-Prince. To understand the household's relationships and what it meant that they resided together on Eagle Street, it became necessary to explain something about the Atlantic world.

Their history was a long one, for some lifelong. Most of those who had accompanied the widow and whom she still termed slaves in 1801 had originally been enslaved under French colonial law. However, as French authorities had begun the abolition of slavery in 1793, the status of

67. The meaning of freedom for the many thousands of rural agricultural workers was still to be determined, and many would soon be subjected to strict work regimes that some criticized as akin to forced labor.

68. The term "household" as used here is adopted from studies of plantation slavery in the United States. Historians have suggested the slaveholding household as a critical analytic category that foregrounds labor, power relations, and political practices. As an urban slaveholding configuration, the Volunbrun household was also shaped by the same dynamics, although to this case we should add legal contestations. Elizabeth Fox-Genovese, *Within the Plantation Household: Black and White Women of the Old South* (Chapel Hill: University of North Carolina press, 1988); Thavolia Glymph, *Out of the House of Bondage: The Transformation of the Plantation Household* (Cambridge: Cambridge University Press, 2008).

those held as slaves within the colony was thrown into flux. Colonial Commissioner Etienne Polverel declared enslaved people in Saint-Domingue's departments of the South and West (including Croix-des-Bouquets and Port-au-Prince) to be free in October 1793.[69] This was followed by the February 1794 decree of the French National Convention that proclaimed slavery abolished in all French colonies, including Saint-Domingue. By June, however, British troops had come to occupy Port-au-Prince, and reimposed the terms of the French Code Noir.[70] Those emancipated months earlier were thus once again said to be slaves. Thus despite France's 1794 abolition, in Port-au-Prince at the moment of the widow's departure many people, including some held by the widow, were again treated as property.[71] Neither by the terms of local practice, nor by the terms of imperial lawmaking, were questions of slavery and freedom settled. Imperial decrees were sweeping in their scope, but they could also be contradicted as empires clashed.[72]

Competing interpretations of the ties that bound the members of the Volunbrun household to one another surfaced in New York as they became subject to juridical scrutiny in 1801. Not surprisingly, we hear how this was a household composed of slaves and slaveholders. Some declared the household to be composed of illicit slave traders and victims of kidnapping and trespass.[73] There was something else. With no hint of

69. The French *Code Noir* of 1685 regulated slavery in the colonial empire. Robert L. Stein, *Léger Félicité Sonthonax: The Lost Sentinel of the Republic* (London and Toronto: Associated University Press, 1985), 78–95. Dubois, *Avengers of the New World*, 154–68. Slaves in the colony's North had been freed the previous August by the proclamation of Commissioner Léger-Félicité Sonthonax.

70. David Geggus, *Slavery, War, and Revolution: The British Occupation of Saint-Domingue, 1793-98* (New York: Oxford University Press, 1982), 114–19, 142–52.

71. Dame Volunbrun. Procés-Verbaux des Deliberation du Conseil Privé de son honneur le Brigadier General Hozrek a compter du 22 7^{bre} 1794 jusqua et compris le 26 fevier 1795. British National Archives, Public Records Office (Kew). CO [Colonial Office,] 245, 5 page 111 (December 5, 1794). Based upon a review of the folios and notarial acts contained therein of French colonial notaries public Monnerons, Cottin, Molliet, Hacquet, Fissoux, Vausselin, Thomin, Barrault in Port-au-Prince and Croix des Bouquets for the years 1793 to 1797. Archives Nationales d'Outre-Mer, Aix-en-Provence.

72. Dubois, *Avengers of the New World*, 168–70.

73. The state's trial courts had been confronted with complex interpretations of the general prohibition against trading slaves through the state. *Sable v. Hitchcock*, 2 Johns. Cas. 79 (New York Supreme Court 1800) held, for example, that an executor's sale of slaves after an owner's death did not violate the general prohibition against the sale of slaves imported into the state. In *Fish v. Fisher*, 2 Johns. Cas. 89 (New York Supreme Court 1817) the Court freed an enslaved man who had been hired out across state lines, rather than sold, in an effort by his owner to avoid charges of illicit slave trading. Regarding these cases generally, see Paul Finkelman, *An Imperfect Union: Slavery, Federalism, and Comity* (Chapel Hill: University of North Carolina Press, 1981), 70–76.

contradiction, the household was also described as a family. What was the basis for this claim? Blood or paternity linked some members of the household. There was the family pair of the widow Volunbrun and her elderly mother. A number of those deemed slaves were also related: Jean Baptiste, Solinette, Papote, and Jean François were siblings, all children of Félicité, another of the widow's slaves in Port-au-Prince. At least one child was born into the household during this period, Adèle, daughter of one of the enslaved women who had migrated from Saint-Domingue.

Invoking the term family in this case, however, suggested a configuration of people that crossed boundaries of blood, race, and status. For example, when Cléry hired the sloop *President*, he did so by way of a written agreement that provided for the passage of his "family" of "fifteen persons" to the city of Norfolk. Thomas Buckley, owner of the sloop, adopted Cléry's characterization of the household, agreeing to transport the "family" of "women and little fellows."[74] We might dismiss these invocations of family as self serving. Cléry was, after all, attempting to deflect charges of slave trading. Buckley was in no better a position, attempting to rehabilitate his Manumission Society-honed reputation in the face of having contracted to carry enslaved people out of the state. For each man, characterizing the household as a family cut against his culpability.

Buckley and Cléry were not, however, alone. Brockholst Livingston, attorney for Volunbrun, published a "declaration" alleged to have been dictated by the widow's slaves. It offered another suggestion about what family may have meant. The interpretation of this document demands great care. The declaration was procured by an attorney whose clients faced charges of slave trading and trespass. The only record we have is a newspaper transcription. It was vaguely described as having been "declared on oath before a notary," and its tone is that of people content with their circumstances. But it also elaborates on the household's relationships. The slaves were said to have declared that they were "in whole family . . . all born and brought up [together], except two." The four children of Félicité were of the same "family," in this sense. Perhaps still others of those held by the widow were related by ties of blood and paternity. Volunbrun's advocate in the local newspapers, "A Friend to Order," went further. Theirs was a "quiet and happy family," he urged, "most of them young boys and girls." The widow's feelings were "little short of those of a mother" who held their morals "dear to her."[75] A final claim,

74. "For the American Citizen," *American Citizen and General Advertiser*, September 2, 1801, 3.

75. A Friend to Order, "For this Gazette. To the Friend of Justice," *New-York Gazette*, September 5, 1801, 2.

that the widow was "God-mother of several," may be most telling. Perhaps Volunbrun had indeed stood alongside her slaves at the parish baptismal fonts of Croix-des-Bouquets and Port-au-Prince. If so, by her presence and the lending of her name in a church ritual, she had taken part in the construction of a spiritual family that carried with it bonds of reciprocity, ties that were nonetheless not inconsistent with even stronger bonds of domination.[76]

Multiple narratives were in play. In New York, the widow's public position was that those held in her household were slaves but also members of a family. Privately she offered another interpretation to French diplomatic authorities. In late August, uncertain about the resolution of the freedom suit, the widow turned her attention away from New York's courts to French authorities. Her elaborate appeal to the French commissaire général in Philadelphia sought his intervention against the Manumission Society's efforts, explaining that the work being done by her household was essential to her well-being.[77] Here, Volunbrun's language is telling. Never does she deploy the terms slaves (*esclaves*) or family (*famille*) to characterize the household. Instead, she referred to the freedom suit claimants by way of the ambiguous French word *domestiques.* Here, the widow attempted to avoid the juridical bind that the1794 abolition may have engendered for French diplomatic officials by eschewing the category slave, one that arguably no longer existed. The term *domestiques* perhaps reads as "servant," itself a category that was hardly precise in the early nineteenth-century. At this same moment, labor law was shifting such that servants (rather than slaves) could no longer be subject to physical discipline, nor could they be forced to labor by bodily coercion.[78] Perhaps it is this quagmire that, in part, explains why the widow received neither the courtesy of a reply nor the intervention she hoped for. By whatever explanation, the relationships being tested in New York extended across time and space, in many instances to the births of the slaves in question.

76. For Saint-Domingue, the evidence of these arrangements remains anecdotal. The baptisms of slaves were not recorded in the colony's *état civil*, or parish records. For a discussion of Godparenthood and the baptism of slaves in Brazil, see Stephen Gudeman and Stuart B. Schwartz, "Cleansing Original Sin: Godparenthood and Baptism of Slaves in Eighteenth-Century Bahia," in *Kinship Ideology and Practice in Latin America*, ed. Raymond T. Smith (Chapel Hill: University of North Carolina Press, 1984), 35–58.

77. Widow de Volunbrun to Citoyen Commissaire Général, August 24, 1801, Centre des Archives Diplomatiques de Nantes, Consulat de Philadelphie, Consulat Général, 125, Affaires Particulières. Thank you to Manuel Covo of the l'École des Hautes Études en Sciences Sociales for bringing this document to my attention.

78. Robert J. Steinfeld, *The Invention of Free Labor: The Employment Relation in English and American Law and Culture* (Chapel Hill: University of North Carolina Press, 1991) 122–46.

Were they slaves and slaveholders, free people and kidnappers, family by blood or by ritual? Each attempt to answer the question invited authorities in New York to reframe their deliberations in the space of the French empire.

New York City's legal culture appeared unprepared to resolved Atlantic world slavery's complex disputes. Courts and local officials were better equipped to address the arguably more mundane problem of peace in the city streets. The freedom suit on behalf of the widow's slaves was fumbled, and it languished. Only the prosecution of the rioting "French Negroes" proceeded. They were held in jail, indicted, tried before a jury, and sentenced to a sixty-day jail term, all at the direction of the city's District Attorney. This is not to suggest that rioting was not or should not have been a genuine interest for public officials. But it is to point out that rioting was one sort of offense that legal culture responded to by way of a well-defined set of precepts and procedures. Such was not the case for complex freedom suits.

In New York, legal culture did little to help settle the questions of law that were at the core of the Volunbrun household. In fact, although resolving them was spoken of as key to determining the status of those the widow held as slaves, the courts played only a minor role throughout this dispute. There was a single court appearance during which the widow proffered bail to a magistrate. Competing writs were procured by agents or attorneys on behalf of private individuals–the widow Volunbrun, the slaves in question, and the captain of the sloop *President*. These required little more than the signature of a local magistrate, with the documents drafted by manumission society agents and lawyers. The only professional legal opinions ever offered came from the attorney for the widow, Brockholst Livingston, who published his view in the newspapers rather than in briefs. The attorney for the Manumission Society, Peter Jay Munro, never ventured his point of view. The intervention of the city's mayor, Edward Livingston (second cousin to Brockholst) was sought out by Manumission Society agents, but he does not appear to have acted. As detailed previously, the questions of law were complex, but they were argued not by way of legal briefs or in courtrooms but by letters in the city's daily newspapers. There is the distinct sense that what might be termed juridical questions of slavery and freedom relied upon the insight and the initiative of private individuals—Manumission Society agents, slaveholders, perhaps slaves themselves—not the state. The legislature's 1788 scheme appears to have anticipated just this. The fines to be levied in instances of illicit slave trading, for example, were to be paid in one part to the state and in the other part to the "the person or persons who shall sue and prosecute" the matter. It is true that the city's courts stood ready to render a determination in the Volunbrun case; the dispute that arose early in August was

scheduled to be heard by a judge in October. But there was no sense of urgency and plenty of time within which less formal wrangling might bring about a resolution.

And so it did. While the various writs remained pending before the city's courts, a group of New York's "French Negroes" came to their own view about how the Volunbrun dispute should best be resolved. We now know the story well. They gathered on a Monday evening outside the widow's home and attempted by way of force to answer the questions of law. Those the widow claimed as slaves were free people, the crowd argued. Their self-appointed role was to enforce France's abolition decree, New York's slave code, Louverture's constitution, or notions of a higher law. Or perhaps they judged law to be the wrong means by which to resolve such a matter, opting instead to employ the extralegal as an arguably superior approach. Civil unrest vied with law-bound tactics for supremacy over questions of slavery and freedom.

Their efforts, as we know, failed. The widow Volunbrun's slaves were not freed that evening or ever, at least not during their remaining time in New York. Still, the riot had the power to affect the outcome of the case. In its wake, the resolve of the Manumission Society and its zeal for the prosecution of French slave traders collapsed. The Volunbrun case continued to appear on the docket of the Society's monthly meetings for the remainder of the year, but they never followed through on the prosecutions that just months earlier had been initiated with such passionate resolve. Rescuing French slaves was one matter, being allied with "French Negroes" was another. And the Manumission Society quietly distanced itself from the crowd of rioters. To do so required also distancing themselves from those the widow Volunbrun held as slaves. Perhaps they remained highly rational reformers after all. In 1802, when the Volunbrun household once again packed its belongings and headed out of New York for Baltimore, the Society did not even take formal note, much less interfere.

A Change of Jurisdiction

New York would leave it to another jurisdiction to reach some sort of finality about the issues that had slipped through the fingers of its legal culture. In 1818, the slaves in the Volunbrun household filed a second freedom suit again raising claims grounded in France's 1794 abolition. In Maryland, unlike New York, law's grasp of slavery was somewhat more firm, although we see how courts strained to reason their way through the problems that Saint-Domingue's refugees continued to present. This

time it seemed that some of the enslaved men in the Volunbrun household had attempted to run away. In response, the widow "caused them to be sent to New Orleans as her…property[,] subject to her future orders."[79] Represented by a local manumission society attorney, Volunbrun's slaves filed suit and without explication, a three judge panel concluded that nothing in state law supported the freedom claim. The petition was dismissed.

The manumission society appealed to the state's highest court, the Court of Appeals, which issued its ruling in 1820. Before concluding, as the trial court had done, that the men in question were indeed slaves, the court offered a more thorough consideration of an old question: Had the slaves in question been slaves at all, or had they been free people when they arrived in New York in 1797, having been manumitted pursuant to France's 1794 decree that abolished slavery in its colonies?

Those in the widow's household—sometimes termed family and at other times *domestiques*—were slaves, the court concluded. In its reasoning we sense Maryland's high court straining to assert its supremacy and resist the intrusion of Atlantic world forces into its deliberations. The court never reached an interpretation of France's abolition because it declined to acknowledge its very fact. There was before it no evidence of such an act by France, the court concluded. The Baltimore-based manumission society lawyer, Daniel Raymond, had not proven that France had abolished slavery in Saint-Domingue or anywhere else in 1794. What had been the evidence proffered? Only a history text, Edward Baines's 1817 *History of the Wars of the French Revolution*. Baines's text did report on France's first abolition of slavery in 1794. However, the court concluded that a history text was not sufficient evidence by which to establish any action of a foreign legislature, including its abolition of slavery. The widow's right to "remove" Jean Baptiste and the others to New Orleans, as her slaves, was thereby affirmed.[80]

79. The record is unclear as to how many of her slaves Volunbrun proposed to "remove" to Louisiana. The Court of Appeals decision indicates the number was five, but the power of attorney that authorized the sale of Volunbrun's sales notes only four.

80. Subsequent courts as well as treatises cite the *Baptiste* case on questions related establishing a party's domicile. *Bowling v. Turner*, 78 Md. 595, 28 A. 1100 (1894); *Ringgold v. Barley*, 5 Md. 186 (1853), *Houston v. Texas Central Railway*, 70 Tex 51; *State ex rel. Phelps v. Jackson*, 64 A. 657; *Haney v. Marshall*, 9 Md. 194 (1856); *Siemer's Adm'r v. Siemer*, 2 G&J 100; and *Londerry v. Andover*, 28 Vt. 416 (1856). See also, Jeffrey A. Schoenblum, "Section 9.08. Refugees and Stateless Persons," *Multistate and Multinational Estate Planning*, 3rd ed., vol. 1 (discussing the Ennis-Baptiste distinction); and, Melville M. Bigelow, *Commentaries on the Conflict of Law, Foreign and Domestic: In Regard to Contracts, Rights, and Remedies*, 8th ed. (Boston: Little, Brown and Co., 1883). The case is also associated with considerations of the standard of evidence for the

If the court successfully shielded itself from the effect of French law, it was not nearly as successful in protecting itself against the recalcitrance of French slaveholders. While awaiting a ruling from the Court of Appeals, the widow had the slaves in question seized, placed on board a ship, transported to New Orleans, and sold out of the jurisdiction in that city's burgeoning slave market. Although Raymond protested that she had evidenced "high-handed contempt" for the "justice of the state," the court remained seemingly unmoved. Its final ruling, although aiming to define questions of law fell short of resolving the lived problem of slavery and law. Similarly to the force of a crowd of 200 French Negroes, the will of a French slaveholder had managed to disrupt the orderly administration of slavery and law in Baltimore.

admission of the acts of foreign legislatures. *Cappeau's Bail v. Middleton & Baker*, 1 H&G 154 (1827).

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