

Off the Record: The Production of Evidence in 19th Century New Jersey**By Jarrett M. Drake, M.S.I.****DOI: <http://dx.doi.org/10.14713/njs.v1i1.16>****Abstract**

On February 1, 1812, the New Jersey General Assembly passed a law stating that in order for a slave or servant to be permanently removed out of the state, two judges of the Court of Common Pleas had to first obtain the bond person's consent to the removal. Intended to curb the rise of domestic trafficking following the 1808 Congressional ban on the international slave trade, the statute placated New Jersey abolitionists while simultaneously providing slaveholders a loophole for profitable disposal of their property. Jacob Van Wickle, a judge in Middlesex County, exploited that loophole. This paper examines documents found at the New Jersey State Archives to argue that methodical, synchronized record production by county officials engineered an illegal slave-trading cartel spanning from New Jersey to Louisiana. The records presented as evidence—consent certificates and affidavits—bear the appearance of authenticity yet contain muted elements of evidential rehearsal. Describing their collective rhetoric illuminates the dubious condition of their creation, the implications of which suggest that archivists must reevaluate the concept of authenticity during the appraisal process.

On February 1, 1812, the New Jersey General Assembly passed a law stating that in order for a slave or servant to be permanently removed from the state, two judges of the Court of Common Pleas first had to obtain through a private examination the bondsperson's consent to the removal. Intended to curb the rise of domestic trafficking following the 1808 Congressional ban on the international slave trade, the statute placated New Jersey abolitionists while also providing

slaveholders a loophole for profitable disposal of their property. That loophole was opened even wider by Jacob Van Wickle, a judge in Middlesex County. In his capacity as magistrate, he certified the consent of dozens of slaves and servants to relocate to Mississippi, Louisiana, and the recently organized Alabama Territory.

The voyages of the men and women to the Deep South did not proceed unmolested, however. As the brig *Mary Ann* departed Sandy Hook, New Jersey, on the morning of March 11th, 1818, a nearby United States revenue cutter accosted the crew members to investigate allegations that the men intended to smuggle slaves out of the state, contrary to existing law at the time. After examining the ship's manifest, the customs authorities permitted the *Mary Ann* to continue its journey, all the while unaware of the fact that crewmates had stowed their cargo—thirty-six “consenting” slaves—in the hold of the vessel. Nonetheless, federal officials in Louisiana arrested Captain William Lee as the brig disembarked into the port of New Orleans, charging him with falsification of ship manifests.

He would not be the only one indicted. During Lee's trial in Louisiana's federal court, Colonel Charles Morgan set sail on May 25, 1818, from Perth Amboy to New Orleans aboard the sloop *Thorn*, carrying thirty-nine slaves and servants. A New Jersey jury would later return seventeen indictments against Morgan for his removal of sixteen children and one adult. Following widely publicized trials, however, juries eventually acquitted all those accused, holding no one accountable for what newspapers in neighboring Pennsylvania referred to as “an abominable traffic in human flesh.”¹

How did the individuals involved successfully evade conviction for having engineered an illicit trafficking of human cargo? With a selection of documents pertinent to the trials, this paper

¹ “Kidnapping,” *Centinel of Freedom*, June 9, 1818: 3.

advances the claim that deliberate and coordinated production of records enabled the men to circumvent the 1812 law and illegally transport dozens of enslaved and indentured men, women and children into the sugar and cotton plantations of Louisiana. The records offered as evidence—certificates of consent and affidavits—appear transparent, yet contain muted elements of evidential rehearsal. Describing the collective rhetoric built into these documents makes possible a richer understanding of the archives, as Ann Stoler suggests, not as sources of knowledge but as sites of experimental performance.² This framework brings instances such as the 1818 slave exportation cases into ongoing discussion on the role of records in governing bodies.

Legislation pertaining to slavery in New Jersey emerged in gradual fragments. Like its more Northern counterparts, New Jersey's General Assembly had in 1786 prohibited the importation of slaves from Africa. Also like their other Northern counterparts, most of New Jersey's legislators aimed to preserve employment opportunities for poor whites, not promote black freedom or access to citizenship.³ In 1788, the New Jersey legislature passed the earliest New Jersey statute requiring slave consent for his or her removal beyond the state. Ten years later this would be replaced with language more favorable to slaveholders' interests. A key provision to the 1798 law, however, was the penalty to be levied against slave owners bringing slaves from other states with the intent to resettle in New Jersey.⁴ This is significant because of its attempt, in theory, to close the borders of interstate trade to and from New Jersey.

New Jersey became the last Northern state to enact a gradual abolition law when on February 15, 1804, it declared all children born to a slave mother after July 4, 1804, free at birth. Those thus freed were nonetheless to serve their mother's owner until age twenty-one (women) or

² Ann Laura Stoler, "Colonial Archives and the Arts of Governance," *Archival Science* 2, nos. 1-2 (2002): 87.

³ Gary K. Wolinetz, "New Jersey Slavery and the Law," *Rutgers Law Review* 50 (Summer, 1998): 2240; Edgar J. McManus, *Black Bondage in the North* (Syracuse: Syracuse University Press, 1973): 180.

⁴ An Act Respecting Slaves. Laws of the State of New-Jersey 371 (An Act of 1798, Ch. 307 § 20).

twenty-five (men).⁵ Gradual abolition, it must be noted, differed greatly from emancipation. No enslaved person's status in New Jersey changed as a result of the passage of this law. Instead, the 1804 measure effectively created two distinct populations of servitude: one bound for life and the other bound for a term of years. The distinction, one clearly noted and respected through the courts, was open to exploitation and infringement, aided by common misconceptions on the part of many New Jersey residents.⁶ If, for example, a servant for a term of years could be transported into another state where no abolition order existed, on what legal grounds would the freeborn servant stand to enforce the freedom due to him or her under New Jersey law? After Independence Day in 1804 the county clerks did indeed record each birth to an enslaved woman, but to what extent, if any, did this document travel with servants as they exited the state?

The 1812 law contained three significant changes from the 1798 code. First, it shifted the authority of consent examinations from a justice of the peace to two judges in the Court of Common Pleas. Second, it commanded the justices to create a certificate of the examination and file it in the county manumission book.⁷ Equally applicable to slaves and freeborn servants, the decree provided that those giving consent were to be of full age, or have parents present on their behalf if not. Third, and most relevant to the subsequent 1818 court cases, the law empowered the document with the following language: "a copy of which record shall be received in evidence in any court in this state."

⁵ An Act for the Gradual Abolition of Slavery 103 (An Act of 1804). *Bloomfield's Laws of the State of New Jersey* (1811).

⁶ For an example of the legal quagmire regarding slaves, servants, and births of freeborn children, see the 1790 State Supreme Court opinion explaining the writ of habeas corpus issuance for Silas in *Cases Adjudged in the Supreme Court Relative to the Manumission of Negroes and Others Beholden in Bondage* (Burlington, New Jersey: The New Jersey Society for Promoting the Abolition of Slavery, 1794): 25-6.

⁷ An Act Supplemental to the Act Entitled An Act Respecting Slaves. Feb.1, 1812, Acts 36th G.A. 2nd sitting, p.15-18.

John Van Maanen and Brian T. Pentland have suggested the effect that the mere threat of an adversarial audience may pose on records producers, arguing that, “Records thus have rhetorical uses as, for instance, when they are used to convince some audience that those in the organization are taking care of business in quite proper ways.”⁸ A careful look at the consent examinations suggests that judges in New Jersey counties rarely—if at all—concerned themselves with recording what actually occurred, but instead focused on recording what could be entered as evidence in the face of litigation. Given the desire of New Jersey slaveholders to reap profits for their property in a growing Southern slave market, it should have been little surprise that several individuals colluded to exploit New Jersey’s gaping indeterminacies regarding the production of evidence.

The increased demand for labor in the Deep South and the lower Mississippi Valley stimulated the domestic slave trade in the early nineteenth century. Various structures sustained the trading, not the least of which were kinship networks that relied on familial and political connections to ensure the highest return on investment. As slave owning settlers pushed into the Old Southwest to acquire land in the decade following the Louisiana Purchase, the first acquisition many sought was the purchase of additional slaves. But with Congress prohibiting the international importation of slaves after 1808, this presented a challenge for newly arriving residents. How would they, with no steady supply of labor, cultivate the fertile crops of the Mississippi Valley region and do so at a profit?

It remains unclear exactly when and under what auspices Col. Charles Morgan had left his hometown of South Amboy, New Jersey, and entered the Louisiana Territory. There is evidence to suggest that Morgan, son of Revolutionary War veteran and later United States Congressman

⁸ John Van Maanen and Brian T. Pentland, “Cops and Auditors: The Rhetoric of Records,” in Sim B. Sitkin and Robert J. Bies (eds.), *The Legalistic Organization* (Thousand Oaks, CA: Sage Publications, 1994): 53.

Captain James Morgan, Sr., may have arrived in Pointe Coupée Parish as early as 1801, and immediately involved himself in the slave trading business.⁹ With Louisiana still under Spanish dominion, it might appear implausible for a New Jersey resident to be able to settle in the highly contested region of the Mississippi Valley, but Morgan's lineage explains his mobility. His father, Captain Morgan, Sr., had corresponded with General George Washington before, during, and after the 1778 Battle of Monmouth as his 2nd Regiment Middlesex County militia attempted unsuccessfully to stave off British advancement to Sandy Hook on its way to Manhattan. While Washington apparently did not send letters directly back to Morgan, it is evident from the sequence—dated June 26th, June 28th, and June 29th—that Morgan received orders from Washington and followed them as instructed.¹⁰

This political and familial connection presumably offered a certain level of protection to Col. Morgan, who quickly became the first American sheriff within the parish of Pointe Coupée after the French, who briefly regained control of the territory from Spain, ceded the Louisiana Purchase to the United States in 1803. Morgan wasted little time in setting up a substantial sugar plantation. An 1809 census of Pointe Coupée valued his property at \$2,700, with twenty-eight slaves.¹¹ Morgan's lucrative investments attracted the attention of fellow New Jerseyan John Craig Marsh, of Rahway, and Marsh's business partner William Stone, of New York City. The two

⁹ Gwendolyn Midlo Hall's database *Afro-Louisiana History and Genealogy, 1718-1820* contains a record dated February 2, 1801, of a "Charles of Ill Morgan" in Pointe Coupée having sold Helene, eighteen years-old, to a "Charles of Poste Beauvais" (document number 2102). The same "Charles of Ill Morgan" sold five individuals to J.B. Nicollet on January 2, 1802 (document number 2144).

¹⁰ James Morgan to George Washington, June 26, 1778; Morgan to Washington, June 26, 1778; Morgan to Washington, June 28, 1778; Morgan to Washington, June 29, 1778. All contained in Series 4. General Correspondence. 1697-1799. George Washington Papers at the Library of Congress.

¹¹ Appraisal of Lands and List of Negroes For the Parish of Pointe Coupée For the Year 1809, as reproduced by Todd J. Borque, "Census of Pointe Coupée, 1809," *Louisiana History: The Journal of the Louisiana Historical Association* 47, no. 2 (Spring, 2006): 216.

relocated to Louisiana in 1818, settling roughly one hundred miles southwest of Point Coupee in the town of New Iberia and Petite Anse Island.¹²

As a first order of business, the men had to acquire a labor force that could be compelled to toil in the humid Gulf sun. The following article, first printed on January 10, 1818, in the widely circulated *Niles Weekly Register* and later reprinted in the *New Jersey Journal*, surely drew the interest of any slaveholder seeking to relocate to Louisiana: “A Milledgeville paper says, that negroes on the sugar estates of Louisiana are worth from 600 to 1000 dollars yearly; and the sugar crops are worth from 20 to 150,000 dollars a year...for sugar, to a very considerable part of our population, is a real necessary of life.”¹³

The group of Northeasterners could either place their bid within the racial spectacle of the New Orleans slave market, seek to purchase slaves in the Upper South, or tap into their kinship networks from New Jersey to transport slaves and servants themselves.¹⁴ The first and second options presented many challenges, including the steep price as well as the lack of established connections to broker a reasonable deal. The third, however, proved to be much more viable. All the men needed in order to execute their intent to buy cheap slaves from New Jersey were participating agents who could successfully fulfill the requirements of the 1812 state law that stipulated a slave or servant could only be removed from the state with his or her consent. Success hinged upon their ability to procure evidence that their soon-to-be purchased slaves willingly agreed to relocate to the harsh conditions of the Deep South. The men found no shortage of assistance, including Morgan’s brother-in-law, Jacob Van Wickle, along with William P. Deare,

¹² James J. Gigantino II, “Trading in Jersey Souls: New Jersey and the Interstate Slave Trade,” *Pennsylvania History: A Journal of Mid-Atlantic Studies* 77, no. 3 (2010): 284.

¹³ “Wealth of Louisiana,” *Niles Weekly Register* 13, no. 332 (January 10, 1818): 314, reprinted in *New Jersey Journal* January 20, 1818, p. 3.

¹⁴ For a thorough treatment of the nineteenth century New Orleans slave market, see Walter Johnson *Soul by Soul: Life inside the Antebellum Slave Market* (Cambridge, MA: Harvard University Press, 1999), especially chapter 5, “Reading Bodies and Making Race.”

Lewis Compton, and Peter F. Hendry.

Morgan left Pointe Coupee in January of 1818 with \$45,000 cash in hand. He had traveled to Virginia intent on purchasing as many slaves as possible, but planned to visit family during his trip to the East Coast. At some point, Morgan apparently reasoned that it would make more financial sense to buy his labor in New Jersey, which promised to offer considerable savings compared to the markets of Alexandria and Richmond. In anticipation of the trouble he might face in removing the slaves and servants for a term, Morgan also enlisted the counsel of William P. Deare, who happened to be county clerk for Middlesex County.¹⁵

To reach a useful conclusion on exactly what occurred next, one must analyze the certificates of consent examinations relevant to Morgan, Van Wickle, Compton, and Stone. It is not sufficient to know *that* these records exist; rather, one must scrutinize the features, formularies, and structures that enabled them to appear truthful in the face of extreme implausibility. The careful historian and meticulous archivist, then, must pose the following questions: what will close scrutiny of these documents reveal about the events they purport to describe? To what extent will such scrutiny yield facts or camouflage fiction? Can archives tell us what happened or tell us what did not happen?

The Middlesex County manumission book contains an entry that declares:

“...on this twenty-seventh day of February in the year of our Lord one thousand eight hundred and eighteen Nicholas Van Wickle of the county of Middlesex in New Jersey brought before us Jacob Van Wickle and John Outcalt...his male slave, named George aged Sixteen years and the said George having no parents in said State being by us examined separate and apart from his said Master, declared that he was willing, and that he freely consented to remove and go out of this State to Point [sic] Coupee in the State of Louisiana and there to serve Colonel Charles Morgan and Nicholas Van Wickle...”¹⁶

¹⁵ Charles Morgan, “To the Public,” Trenton *True American*, September 7, 1818: 2. Originally published in the *New Orleans Gazette*, July 15, 1818.

¹⁶ Removal George, 225. Middlesex County Clerk’s Office: Manumissions of Slaves, 1800-1825. Trenton, NJ. New Jersey State Archives (NJSA).

Each subsequent entry in the book bears the same exact language and sequence. An examination certificate contained four key elements. The first listed the date and name of the slave owner bringing forward his slave. In the cases discussed, they refer to Nicholas Van Wickle, Lewis Compton, and Peter F. Hendry.¹⁷ The second element is the pair of observing judges in the matter, one of whom was always Jacob Van Wickle. Third, the certificate detailed the name, age, and consent status of the slave or servant. If the individual was underage, Judge Van Wickle inserted a clause indicating the absence of both parents. The final component disclosed the new owner and destination for the enslaved or bonded individual. In all of these cases, the recipients were Charles Morgan, Nicholas Van Wickle, Lewis Compton, or William Stone, with the destination of Pointe Coupee or New Iberia.

At first glance, the strict assembly of language appears to be routine, insignificant early nineteenth-century bureaucracy. What government agency, a court no less, could maintain a coherent system of records if each case yielded a different and unstructured format? Could one perceive the formulary as a means to ensure equality before the law, not distort it? Perhaps so, but three peculiarities within the certificates undermine any such view of their creation. The first issue concerns the moment of creation, the second pertains to rightful ownership, and the third evaluates the status of the consenting slave and servant.

The first point of conflict is the alleged date on which Nicholas Van Wickle, Compton, and Hendry brought their slaves before the judges. In the case of George, for example, the certificate indicates that an examination took place on February 27, 1818, yet the county clerk (and counsel

¹⁷ It should be noted that other persons successfully (and presumably legally) removed their slaves across state lines, but the focus of this inquiry is solely on those cases relevant to the men indicted and arrested in Middlesex County. For instance, Lewis Compton appears to have also removed three slaves and servants for a term to Allen Reynolds in Palmira, Mississippi, but the author did not consider those consent records since Reynolds was not implicated along with the men mentioned in this paper. See *Removal Sam* (287) and *Removal Elijah* (286), both dated October 15, 1818, in Middlesex County Clerk's Office, *Manumissions of Slaves*. NJSA.

to Morgan) William P. Deare did not receive and notarize the record until May 20, 1818, nearly a full three months after it allegedly took place, and after George had been placed aboard the *Mary Ann* and shipped to New Orleans. This discrepancy raises the obvious yet exceedingly difficult question: was the certificate created in February, as alleged, or instead after the fact, perhaps as late as May? Who was present at the point of creation? Considering that the form does not require the “signature” or even a cross as written confirmation by the slave, did judges create these records before, during, or after the examination? Who maintained physical custody of the document before it found its way into the Middlesex County Manumission Book?

Even more uncertain than the actual date the examination took place is the true owner claiming to bring forward a slave. Hendry had been listed as the legal owner in the removal of Sam, who the certificate informs us agreed on April 29, 1818, to serve Nicholas Van Wickle and Morgan in Pointe Coupee.¹⁸ But just a month later, the *Philadelphia Gazette* reported Hendry’s activity in kidnapping free-born servants and selling them south beyond the limits of any court that would entertain a claim to freedom, and before buyers could realize the illegality of the transaction. The article further implicated Judge Van Wickle, his son Nicholas, and Morgan as chief operators in facilitating the “abominable traffic.”¹⁹ In the case described by the Philadelphia newspaper, authorities did indeed locate a kidnapped child at the Van Wickle estate in South Amboy, arriving just in time to return him to his lawful owner prior to his being sold. But in how many other cases were the individuals who asserted their legal claim over a bondsperson operating under false pretenses? More importantly, what is the likelihood that a judge who maintained a clear conflict of interest would intervene to raise any objection even in the face of obvious deceit?

¹⁸ Removal Sam, 265. Manumissions of Slaves. NJSA.

¹⁹ “Kidnapping,” *Centinel of Freedom*, June 9, 1818: 3; reprinted from the *Franklin (Philadelphia) Gazette*.

Determining the precise age of slaves in New Jersey had also become critical with the state's 1804 gradual abolition law. The difference between being born July 3, 1804, and July 5, 1804, meant the difference between being a slave for life and a servant for a term of years. This delineation carried even greater significance when preparing documents for their removal. A pivotal point, then, was for consent examination certificates to declare ages that were significantly older than the actual age of the person in question. One criticism, mentioned in a letter from an observer in New Orleans, asserted, "The list furnished by the captain [Lee] disagrees grossly with the truth as to their ages. Some, who from inspection, are evidently not more than 14 or 15 being put down as of 25."²⁰ In that case, what was the true age of Phillis, listed as twenty-five, who supposedly agreed to removal on April 22, 1818? What was to become of her son, Charles, declared to be just eighteen months old and for whom Phillis is given as approving his consent?²¹ Moreover, would there be any legal avenue to disprove the "facts" that Judge Van Wickle recorded and transferred to Deare?

If Morgan and Compton physically forced at least five persons on board the *Mary Ann* prior to its departure from Sandy Hook, as was "positively sworn" during the case of Captain William Lee in New Orleans, it is more than possible that their agents could exercise the same kind of violent authority, if necessary, at the moment of initial record creation.²² To suggest that an underage New Jersey slave or servant would "freely consent" to removal to the Deep South in the face of two powerful officers of the court is beyond dubious. The claim fundamentally ignores the implicit or explicit potential for coercion that ensured that any "private" examination could at

²⁰ *Trenton Federalist*, June 29, 1818: 3.

²¹ Removal Phillis and her child Charles, 255. *Manumissions of Slaves*. NJSA.

²² "Kidnapping," *Trenton Federalist*, August 3, 1818: 2.

any point transform into a forced “consent.” The unequal distribution of power, practiced in life and reified in the record, raises overwhelming doubt about the reliability of the consent certificates.

This is not to argue that the documents are forgeries, signed and certified by individuals other than those suggested. Rather, it is appropriate to revisit Ciaran Trace’s argument that,

“The determinations that go into the creation of records, and [their] physical presence and maintenance . . . have ramifications not only for the person who creates and maintains the record, but also for those whose lives are somehow contained within the record and whose lives are later shaped by it. The record has, as one of its function, a strong element of social control.”²³

As such, the juridical instruction presented in the original 1812 law that commanded the record to qualify as evidence in any court fostered the opportunity—which Van Wickle, Morgan, and others exploited—for it to be another tool of power and authority. While proposed as a measure to grant agency to the slave or servant, it instead produced the opposite effect. That county clerks—one of whom openly assisted the accused—placed the archives of such repressive interactions alongside parallel records of manumissions is an ironic commentary on the uneven progress of black freedom in the antebellum North.

Without knowing the conditions under which consent examinations occurred and the process through which judges recorded their occurrence, it remains difficult to declare with any level of certainty what precisely transpired in Middlesex County in 1818. This was to a large extent intentional on the part of those involved: Judge Van Wickle, his son, Charles Morgan, Lewis Compton, and William P. Deare. But the significant enabler to their plot is the design and structure of the certificate itself. Its inherent and deliberate silences support Brien Brothman’s hypothesis that, “one cannot set out to put evidence into records” but one can “put records into evidence.”²⁴

²³ Ciaran B. Trace, “What is Recorded is Never Simply ‘What Happened’: Record Keeping in Modern Organizational Culture,” *Archival Science* 2, nos. 1-2 (2002): 143.

²⁴ Brien Brothman, “Afterglow: Conceptions of Record and Evidence in Archival Discourse,” *Archival Science* 2, nos. 1-2 (2002): 311.

The one reliable conclusion regarding the examinations, then, is that more useful evidence is often left off the record than placed within it, and as a result understanding the essence of these documents is incomplete without knowledge of the immediate context of their inception.

In many ways, the cases against all the men indicted in the operation came back to the power or impotence of the written record. A federal court in New Orleans brought Captain William Lee to trial in May of 1818, charging him with manipulating the ages of his black passengers aboard the *Mary Ann*. During the proceeding, Captain Lee even admitted to deceitfully leading five slaves aboard.²⁵ Further, James M. Elain, a passenger aboard the brig, deposed in New Orleans on May 22nd, reported that after the revenue cutter conducted its inspection of the manifests off the coast of New Jersey, Captain Lee's ship hoisted its flag so as to signal to a small vessel that the coast was clear to bring more slaves aboard for the journey. In concluding his deposition, Elain revealed the violent nature of the men involved, alleging that, "The deponent since his arrival at New Orleans as aforesaid has been threatened by the said J. Plummer, the owner of the Brig" should he provide testimony against Captain Lee.²⁶

These facts being presented, the New Orleans jury nonetheless reached a verdict of not guilty, apparently satisfied with Captain Lee's entering as evidence of his defense consent examinations produced by Judge Van Wickle.²⁷ The jury's return, which favored Judge Van Wickle's certificates over the narrative Elain deposed, had sent a clear message about the authority of narratives built into state documents. The final declaration on "what happened," then, was not

²⁵ Gigantino, "Trading in Jersey Souls," 287.

²⁶ Deposition of James M. Elain, concerning the exporting of slaves, New Orleans, May 22, 1818 [copy]. Miscellaneous Depositions, 1743-1906. NJSA.

²⁷ Frances D. Pigeon, "An Abominable Business: The New Jersey Slave Trade, 1818," *New Jersey History* 109, no. 3-4 (Fall/Winter 1991): 24.

a matter to which one could affirm and attest freely, but one that must present itself in the strict formulary of nineteenth century bureaucracy.

Undeterred by the failure of Louisiana courts to bring Captain Lee to justice for his clear role in the affair, grand jurors of the Middlesex County Court of Common Pleas in early June of 1818 moved forward with misdemeanor indictments against James Edgar, Peter F. Hendry, James Brown, and Nicholas Van Wickle for their “design and intent” to permanently change the residence of free-born black servants for a term and children unable to give consent, violations contrary to the spirit of the 1812 law. In each indictment, the grand jurors fingered Charles Morgan as the buyer, with some charges relating to those blacks carried away aboard the brig *Mary Ann* and others wrongfully removed on the sloop *Thorn*.²⁸ Morgan’s indictments, numbering seventeen in total, rained down from the County Court of Oyer and Terminer, the agency responsible for all criminal matters in New Jersey jurisdictions. But by issuing an arrest warrant for Charles Morgan on June 13, 1818, state prosecutors unwittingly set in motion two trials: one to be held in the court of law in the December 1818 term and one to be held in the court of public opinion over the intervening months.²⁹ As will become evident, the second ensured the first would never take place.

²⁸ Indictment of James Edgar for exporting a slave, Court of Common Pleas, Middlesex Count, March 10, 1818; Indictment of Peter F. Hendry for exporting a slave, Court of Common Pleas, Middlesex County, May 25, 1818; Indictments for exporting slaves, Court of Common Pleas, Middlesex County, June 1818 [2 items]. All contained in Box 1-26, Common Pleas (Bergen – Sussex), Quarter Sessions, Bureau of Archives and History (BAH), NJSA. It should be mentioned that the dates of March 10, 1818, and May 25, 1818, are not the dates the Grand Jury returned indictments for those accused. Instead, those dates constitute the alleged outbound date of the *Mary Ann* and *Thorn*, respectively. In other words, these are the dates on which the prosecution alleged the crimes took place. All indictments from the Court of Common Pleas were issued in the June quarter session of 1818. Also, whereas Captain William Lee faced charges for his complicity while leading the *Mary Ann*, the captain of the *Thorn*, Mathew Mentor, never faced a New Orleans court for inadequate ship manifests. However Mentor was, as were many more persons, arraigned in Middlesex County Court of Common Pleas court for conspiracy to subvert the 1812 removal law. See Pingeon, “An Abominable Business,” 19-26. Pingeon’s list includes James Morgan, more than likely the son of Captain James Morgan, Sr., described earlier, and brother to Charles Morgan.

²⁹ Indictment of Charles Morgan for exporting slaves, Court of Oyer & Terminer, Middlesex County, March 10, 1818; Warrant to arrest Charles Morgan, Court of Oyer & Terminer, Middlesex County, June 13, 1818. Both found in Box 1-22, Oyer & Terminer, Hunterdon & Middlesex, BAH, NJSA.

The warrant for arrest of Charles Morgan could not have come at a more propitious moment in New Jersey public consciousness. On June 1, 1818, the *Trenton Federalist* published a story based on reports from Philadelphia that a group of New Jersey residents had used “force or deception” to convey enslaved and free-born blacks to the southern slave market. The article gave the location as simply “Morgan’s house at South-River,” but ran under the headline of “The Kidnappers.”³⁰ As little as states in the Mid-Atlantic did to prosecute those charged with kidnapping, to launch a public accusation was an affront of character.³¹ While not naming individuals, its mere appearance in New Jersey hastened what would be a firestorm of controversy.

The Elizabethtown *New Jersey Journal*, however, ran a reprint of a different “Kidnapping” story the very next day. Not only did it directly implicate Jacob Van Wickle, his son Nicholas, and Charles Morgan, it made specific reference to an alleged “garrison” at the Van Wickle estate in which slaves would be imprisoned during speculation while awaiting deportation.³² The month of June concluded with more details and allegations piling up against the now-indicted Charles Morgan and his ring of agents.³³ That a July 14th article ran in the *New Orleans Chronicle* praising “Mr. Charles Morgan” for his “copiousness of the present supply”—a listing of the number of slaves brought on recent domestic shipments, brazenly including the *Mary Ann* and *Thorn*—could not have boded well for his prospects at the upcoming December trial. Moreover, the New Orleans story noted: “Jersey negroes appear to be peculiarly adapted to this market—especially those who

³⁰ “The Kidnappers,” *Trenton Federalist*, June 1, 1818: 3.

³¹ For a thorough discussion on kidnapping of free blacks in antebellum Baltimore, see Ralph Clayton, *Slavery, Slaveholding, and the Free Black Population of Antebellum Baltimore* (Bowie, MD: Heritage Books, 1993).

³² “Kidnapping,” *New Jersey Journal*, June 2, 1818: 3. This article was widely reprinted and republished in New Jersey outlets as well as those around the Mid-Atlantic. For example, see “Kidnapping,” *New-York Daily Advertiser*, June 5, 1818: 2.

³³ *New Jersey Journal*, June 16, 1818: 3; *Trenton Federalist*, June 29, 1818: 3.

bear the mark of judge Vanwickle, as it is understood that they afford the best opportunity for speculation.”³⁴

Jacob Van Wickle had seen enough. He had stood by for months and witnessed character assassinations against himself, his son, and his brother-in-law throughout the state and region. Col. Morgan, firmly settled back in his Point Coupee plantation, was not present to endure the level of mortification and scandal that Judge Van Wickle certainly experienced. Something needed to be done, and something needed to be done quickly. So Van Wickle responded the best way he know how: by producing evidence. In the month of August, he went on the offensive and wrote an open letter to the public to clear his name and his family’s. He explained the kidnapping by Peter F. Hendry, one which nearly resulted in a free-born servant being sent to New Orleans, as willful deceit by Hendry and not part of any larger scheme he and Morgan had devised to illegally traffic slaves beyond the state. If the public was unwilling to accept Van Wickle’s words, he reasoned that at the very least they should accept those of neutral, unbiased witnesses with nothing to gain or lose in the matter.

So in an unprecedented show of authority and influence, Van Wickle took to the presses to publish in every major New Jersey newspaper six affidavits from an ongoing investigation, each aimed at demonstrating that all slaves and servants for a term who left his house for New Orleans did so with “perfect cheerfulness.”³⁵ Analyzing each affidavit independent from each other would obscure their collective rhetorical power. That is to say, their striking similarity, even down to specific phrasing, is not ancillary to the story. Rather, the deliberate coordination of these affidavits *is* the story.

³⁴ *New Orleans Chronicle*, July 14, 1818. Reprinted in full, *Trenton Federalist* August 10, 1818: 3.

³⁵ “To the Public,” *New Brunswick Fredonian*, August 6, 1818: 2.

A few details on the six affiants are necessary to introduce their testimony. They include: 1) John Vorhees, constable in Middlesex County who executed a search warrant of the Van Wickle household; 2) Samuel Gorden, a possible co-conspirator in the removal case;³⁶ 3) Dr. Cornelius Johnson, the Van Wickle family physician; 4) Samuel Willson, neighbor to the Van Wickles; 5) Nathaniel Culver, driver of the stage coach that brought the enslaved and free-born persons to their departing vessel; and 6) Leonard H. Loviland, a self-described frequent visitor to the Van Wickle household.

It is uncertain how and under what auspices state officials selected these men in particular to affirm the facts of a case involving their co-worker, client, neighbor, and even employer. To say that each published affiant had much to lose in the outcome would be quite the understatement. Further unknown to the reader (and a deliberate silence to be sure) is to which particular indictments these affidavits allegedly correspond. Considering that the Court of Common Pleas and Court of Oyer & Terminer heard separate charges against the men, one would then anticipate evidence gathering to occur for particular cases. This expectation is further buttressed by the fact that the different crimes occurred on different days and in different locations. Did affiants give their statements in the case of James Edgar? Or James Brown? Or Nicholas Van Wickle? Or Charles Morgan? Or did they draft them intentionally to be broad enough to protect and exonerate all involved? Did they, indeed, draft the documents themselves, or simply affix signatures to texts prepared in advance?

³⁶ One particular consent examination record lists a "Samuel Gordon" as the owner of free-born servant Peter. This is significant because the examination purports to have taken place May 22, 1818, just three days before the *Thorn* departed for New Orleans. The buyer and destination listed on the record are Charles Morgan and his Pointe Coupee plantation. Gordon does not appear on any formal indictment, though this absence does not erase the strong likelihood that he was intimately involved with the affair. See *Removal Peter*, 259. *Manumissions of Slaves*. NJSA.

Gorden, Dr. Johnson, Willson, and Loviland were apparently each sworn in before Oliver Johnston, another Justice of the Peace in Middlesex County, on Saturday, June 6, 1818. Dr. Johnson claims to have visited the Van Wickle establishment periodically “since the colored people have been there.” It is important to note the implications of Dr. Johnson’s words. He does not deny that persons of color, none of whom Judge Van Wickle legally owned, were habitually present at the house. In fact, Dr. Johnson went on to recall an instance during one of his house visits that he even treated one such individual who had fallen ill. Dr. Johnson scoffed at any such description of a garrison, instead stating, “they all appeared to have their liberty and to be well satisfied.”³⁷

Willson, neighbor to Van Wickle, continued with Dr. Johnson’s denial of any confinement or guards as alleged in the Philadelphia and Trenton newspapers. To the contrary, the roughly thirty persons who Willson said “belonged to Charles Morgan” had “at all times expressed themselves to be fully satisfied,” so much so that, “on Monday the 25th day of May last...between the hours 12 & 3 o’clock...they came by my house in a stage and open wagons, singing and rejoicing.”³⁸

Loviland, professing to have visited the Van Wickles weekly, also noted the presence of blacks on the property during his sojourns. Loviland was quite impressed that he “heard not a dissenting voice among them.” And as Willson and Dr. Johnson refuted, so too did Loviland erase the myth of prison-like conditions by declaring, “they at all times appeared commonly cheerful and had as much liberty as any coloured people I have ever been acquainted with.” Gordon, the other affiant to record his narrative on June 6th, corroborated with closely parallel language that,

³⁷ “To the Public,” 2.

³⁸ *Ibid.*

“On Monday the 25th day of May last, between the hours of 12 and 3 o’clock...they all got in and said stage and wagons as soon as possible and appeared rejoiced that they were ready to go.”³⁹

Culver, the driver, and Vorhees, the constable, delivered the final two published affidavits given on June 8th and 9th respectively. On May 25th, Culver also observed the same jubilee as the others, recounting how “they all rejoiced all the way down to the vessel, and there did not appear to be a dissenting voice among them.” Vorhees, during his May 17th search of Van Wickle’s kitchen for Hendry’s kidnapped victim, located the young boy but could not resist mentioning that all other black persons present “appeared to have liberty,” as he delivered the warrant to Judge Van Wickle.

That the affiants were prepared to attest to the same language within their statement of facts appears quite obvious, yet that observation is not the most salient one. More to the point of evidential production is the synchrony and fluidity with which the stories align with one another. These documents did not appear as singular instances (as affidavits should), but rather the work that they did collectively could only be effective by being in conscious concert. The degree of accordance within each affidavit signifies the seamless integration of each narrative, eliminating any opportunity for counter narrative.

This rhetorical violence is especially evident as each affiant insisted that the enslaved and free-born persons at the Van Wickle estate presented an “appearance of liberty.” In an era when numerous courts held that people of color were presumptively slaves, the collective assertion that any group of black people could be discerned on sight to be “at liberty” was particularly puzzling. For all “witnesses” to unite behind the notion that dozens of blacks on a powerful judge’s estate were “at liberty” was hardly plausible as a descriptive matter; it seems aimed only at refuting the

³⁹ Ibid.

implication of coercion. With Judge Van Wickle's submission of the six affidavits, what was once unknowable and unprovable (how does one prove they were not detained on someone's private property?) became definitively true in the documentary record.

By his own standards, Jacob Van Wickle succeeded. He had produced yet another set of records that, taken together with their legal formularies and carbon copy structure, proved too formidable to challenge. The prosecution did not move forward with its scheduled December 1818 hearings on Charles Morgan, Nicholas Van Wickle, or Peter F. Hendry. In fact, from all the indictments issued in June 1818, the state failed to convict any single person on any single count.⁴⁰ No one ever spent a day in jail for the taking of two-year old Sam, a freeborn servant from New Jersey, to live the rest of his life as a slave in the plantation society of the Deep South.

The Morgan and Van Wickle families maintained their wealth and influence. Charles Morgan lived the remainder of his life in a town in Pointe Coupee that now carries his name, Morganza. Records indicate that in 1850 he owned upwards of one hundred slaves, 2,500 gallons of molasses, and a farm with estimated cash value of \$85,000.⁴¹ He died in 1856, leaving his \$300,000 real estate to his ninety-one year-old widow Hyacinthe Allain.⁴² Two of Judge Van Wickle's sons, Stephen and Jacob, had relocated to Pointe Coupee as early as 1824. Each

⁴⁰ Pigeon, "Abominable Business," 27.

⁴¹ As aggregated in "Some Large Landholders of Pointe Coupee Parish, 1850," *Louisiana History: The Journal of the Louisiana Historical Association*, 29, no. 4 (Autumn, 1988): 364; Original data: United States of America, Bureau of the Census. Seventh Census of the United States, 1850. Washington, D.C.: National Archives and Records Administration, 1850. M432, 1,009 rolls.

⁴² For information on his death, see *Race, Slavery and Free Blacks, Series 2, Petitions to Southern County Courts, 1775-1867; Part F: Louisiana (1795-1863)*, ed. Loren Schweningen (Bethesda, Maryland: LexisNexis, 2005), Microfilm edition, reel no. 17, Petition #20885651; Chas. Morgan, (1860 U.S. Census), Morganza PO, Pointe Coupee, Louisiana. Series: M653 Roll: 414 Page: 816.

eventually followed the footsteps of Morgan and served as parish sheriff. Judge Van Wickle himself remained in Middlesex County, where he died in 1854.⁴³

Kathryn Burns, in her study of writing and recordkeeping in Peru, reminds us that in the creation of documents: “The overall point was not transparency. Rather, the point was to prevail, should one’s version of what was right and just be legally challenged...document making was like chess; full of gambits, scripted moves, and countermoves. Archives are less like mirrors than like chessboards.”⁴⁴

Do the consent certificates and affidavits that functioned as fulcrums of an illegal slave trading racket from New Jersey to Louisiana affirm or reject Burns’ interpretation? Considering that the certificates purport to verify a jural act, they seem quite consistent with Burns’ characterization. Archival scholar Heather MacNeil notes that in common law societies, jural acts are those involving voluntary relationships, ones “created, transferred, or extinguished by expressed will of the parties.”⁴⁵ But what of enslavement is voluntary? Is not the purpose of enslavement to suppress the will of another? Even when agency is present, can the subjugated party—the slave for life or slave for a term of years—procure authoritative records attesting to its assertion?

Although archival scholar Luciana Duranti argues that “unreliable records are of no use to present and future users,” the consent certificates and affidavits, unreliable and untruthful as they appear, in fact illuminate how authority, justice, and control were administered in nineteenth

⁴³ See Schweninger, *Race, Slavery and Free Blacks*, reel no. 4, Petition #20882431 for a case involving Stephen’s detention of Sanite to settle the debts of her recently deceased husband; see Schweninger, reel no. 11, Petition #20884028 for Jacob’s (son of judge) confiscation of the property of a free man of color, Victor Duperron.

⁴⁴ Kathryn Burns, *Into the Archive: Writing and Power in Colonial Peru* (Durham: Duke University Press, 2010): 124.

⁴⁵ Heather MacNeil, “From the Memory of the Act to the Act Itself: The Evolution of Written Records as Proof of Jural Acts in England, 11th to 17th Century,” *Archival Science* 6, nos. 3-4 (2006): 313.

century, slaveholding New Jersey society.⁴⁶ The case of Judge Van Wickle, Col. Charles Morgan, and the many others involved demonstrate how inauthentic records production fueled a gross miscarriage of justice. Deliberate record-making was strategic and tactical, not only amending justice but impeding it. The records that reflect these chess moves, then, stand not as placeholders of evidence but instead reflect instruments of influence; instruments that were critical to the coordination, production, and performance of illegality.

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⁴⁶ Luciana Duranti, "Reliability and Authenticity: The Concepts and Their Implications," *Archivaria* 39 (Spring 1995): 8.