

*The Private Punishment  
of  
Servants and Slaves  
in  
Eighteenth-Century  
Maryland*

*by  
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For Dr. Paula Gauss

The Private Punishment of  
Servants and Slaves in  
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Introduction

This manuscript on “The Private Punishment of Servants and Slaves in Eighteenth Century Maryland” I started in the late 1960s to challenge what I considered the almost worshipful treatment of the planters of the colonial South and the uninformed consideration of servants and slaves that most historians had presented, and were presenting, and that was being imposed on students from elementary school through college. After 1971 it became more difficult for me to get to Annapolis to check the ads in the *Maryland Gazette*, and so I put the manuscript aside to work on other manuscripts that I had started, for which I already had notes and on which I could work from sources in print. Because the *Maryland Gazette* has become available online I have been able to get back to the servants and slaves, and because of the increasing interest in servitude, as well as the continuing interest in slavery, it appears to be time to make the manuscript available.

Because my object was to challenge what was considered common knowledge at the time I first wrote the manuscript, I have not dealt with the literature that has been published since the mid-1960s or so. To many people, no doubt, this will make the manuscript sound outdated, but that literature is readily available, and with or without that literature my evidence should stand by itself. I suspect that even today,

when the subject is taught at all in the lower schools, and possibly still in colleges and universities, students are getting a very sweetened view of the planters and their treatment of their servants and slaves.

We owe our thanks to Dr. Edward Papenfuse, Maryland State Archivist and Commissioner of Land Patents, for making the *Maryland Gazette* available on the web, and to Dr. Jean Russo, Research Archivist and Associate General Editor of the Archives of Maryland Online, for her help and advice in getting this manuscript online. We owe our special gratitude to Dr. Paula Gauss, whose knowledge, skill, and concern for and patience with me, especially since 2002, has made it possible for me to continue to work. Finally, I thank Beverly Ann, my bride of thirty-nine years, for her help, advice, and encouragement.

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Cortland, New York  
8 November 2010

## Part I. Servants

While historians are beginning to realize that in colonial America there was a large middle class,<sup>1</sup> only someone with a thesis to grind would insist that there was no class structure in the colonies or that any colony was a democracy.<sup>2</sup> In Maryland in the eighteenth century there were at least two classes who had little or no hope of ever acquiring control over their own lives. These were servants and slaves, whose job was to produce wealth for the more fortunate.<sup>3</sup>

In an economy in which the many produced wealth for the few the propertied class had to have ways to control the resentment of those who were doing all of the work and reaping few, or none, of the rewards.<sup>4</sup> A whole range of punishments — fines, imprisonment, servitude, banishing from the province, whipping, pillorying, stocking, branding hands, boring tongues, cropping or nailing ears (or both), hanging, gibbeting, and quartering — were designed to keep the mass of the population in check.<sup>5</sup>

It appears safe to say that nowhere near all of the punishments imposed in eighteenth-century Maryland were recorded in the proceedings of the various courts, in the *Maryland Gazette*, or in any of the other available sources. The planter could punish his own servants and slaves for minor faults or the less serious crimes, and while these punishments were supposed to be relatively mild, sometimes they were very harsh. It is likely that most of these punishments remained private.

The authority that the master held over his servants and slaves bred in him an arrogance and a brutality that is illustrated not only by his enjoyment of such public barbarities as hanging, gibbeting, and quartering but also by his engaging in private barbarities of his own. Far from impressing the master with his responsibility for people less fortunate than himself and therefore developing in him a humility at the thought of his own good fortune and a humanitarianism at the thought of the misfortune of others,<sup>6</sup> the rigid class structure of the eighteenth century developed in the more fortunate classes a feeling that they were indeed superior, that because of their superiority they deserved the power that they held over others, and that they could treat their slaves and their servants<sup>7</sup> — and, indeed, anyone else<sup>8</sup> — any way they pleased.<sup>9</sup>

There were four ways in which people became servants. First, parents, guardians, or the courts contracted, or indentured, young people to serve others, either as apprentices or as general servants, for specified periods.<sup>10</sup> Second, people already in the colony were often sold into servitude for various terms because they could not pay their fines and the costs of their prosecutions after they had been convicted of crimes or if they could not pay the costs of the proceedings against them whether they were guilty or not.<sup>11</sup> Third, in order to get to America people from Europe made contracts with the factors, or agents, of people who were already in America, or made contracts with merchants in England or Europe to pay the costs of their transportation. In return the captains of the ships could sell them into servitude in America to recover the costs of their passage, or they might be given a specified number of days to try to make bargains on their own before the captain or an agent in the province could sell them. The people in this third group were variously called indentured

servants, redemptioners, or free-willers.<sup>12</sup> Once they got to the colonies, however, they were in effect all indentured servants.<sup>13</sup> Fourth, many people were transported to America for seven or fourteen years or for life after they were convicted of crimes in England or if, like destitute children, beggars, vagabonds, and political and religious non-conformists, they were considered undesirables for some other reasons.<sup>14</sup>

While sometimes the servant might have been better off than the slave, surely his condition was nothing to rejoice about.<sup>15</sup> Until 1715 there was no specific limitation on what the master could do to his servants. The law provided only that if any master excessively beat or abused his servant the county justices could fine him not more than one thousand pounds of tobacco for the first and second offenses and for the third offense could free the victimized servant.<sup>16</sup>

The wording of the law, however, was too indefinite to provide any real protection. Excessive abuse was hard to define, and many a servant must have been the victim of abuse that was serious but in the view of the county justices was not excessive. The master could beat a servant to the limit that he thought the justices would permit, and if by chance he did mistake the extent of that cruelty, so that they did fine him, he could beat his servants in rotation so that it would be a long time before he was brought into court on a second offense for beating the same servant and obviously even longer before he was brought in on a third offense and therefore risked losing the servant entirely.<sup>17</sup>

While such a suggestion might appear extreme, probably it would not have seemed so to the more sensitive people of the period. According to Father Joseph Mosley, writing in 1772, the masters were “in general cruel, barbarous, and unmerciful.”<sup>18</sup>

As a result of pressure from England the assembly in 1715 furnished a somewhat better protection for servants. But it took the assembly a long time to come around. In August of 1691 the Council of Trade and Plantations instructed Governor Lionel Copley to try to get the assembly to pass a law “for the restraining of Inhumane severities, which by ill Masters or Overseers, may be used towards their christian servants or slaves.”<sup>19</sup> When the assembly did nothing the Council of Trade and Plantations issued exactly the same instruction to Governor Francis Nicholson in March of 1693/4,<sup>20</sup> and the hesitation of the assembly made it necessary for the Board of Trade to issue the same in instruction to Governor Nathaniel Blakiston in October of 1698<sup>21</sup> and to Governor John Seymour in May of 1703.<sup>22</sup> The only response of the assembly was to pass the very weak laws of 1692, 1699, and 1704.<sup>23</sup> The Board of Trade issued the same instructions again, this time to Governor John Hart in February of 1713/14,<sup>24</sup> and when Hart passed on his instructions to the assembly the lower house replied that there was already a law by which provincial and county justices could hear complaints between masters and servants but that it would correct any deficiencies in the law.<sup>25</sup>

As a result of this pressure the assembly provided in 1715 that a master could whip any servant with ten lashes or fewer but if he thought that the servant deserved more than ten lashes he had to take his complaint before a magistrate. The magistrate then could order the servant whipped with no more than thirty-nine lashes. The new law said nothing about limiting the master’s punishment of his own slave.<sup>26</sup> The fire director of Annapolis could order any servant who refused to obey orders in fighting a fire whipped with up to thirty-nine lashes.<sup>27</sup>

People who advertised for runaway servants often considered the marks of whippings an important means of identification. When in May of 1746 Richard

Croxall of the Baltimore iron works advertised for Benjamin Tasker's runaway convict servant Henry Kirk he noted that Kirk had been "lately Whipt for his Roguery, and the Stripes remain fresh on his Back."<sup>28</sup> In his advertisement for his runaway servant Charles Smith in June of 1746 Joseph Noble Jr. of Prince George's County noted that Smith had "the Scars of Whipping on his Back."<sup>29</sup> When in May of 1753 David Ross of Bladensburg advertised for his runaway servant William Beall he noted that Beall had "several Marks of Correction upon his Back" for running away twice before.<sup>30</sup> Charles Ridgely of Baltimore County noted when he advertised for his runaway servant Darby Mahoney in August of 1753 that Mahoney had "several Scars on his Back, occasioned by whipping." According to Ridgely, Mahoney had "always been a notorious Rogue and Thief."<sup>31</sup> When John Smyth of Kent Island advertised for his runaway convict servant John Syms in September of 1758 he pointed out that Syms was an old offender, as could "be seen by the Marks on his Back."<sup>32</sup> When Michael Gretter, the jailer of Fairfax County, Virginia, advertised in October of 1768 that he had jailed John Hoget as a runaway in Alexandria and that Hoget claimed to belong to John Mathews of Baltimore, he also noted that Hoget bore the marks of a recent whipping.<sup>33</sup>

From these advertisements there is no way to know just how severely the servants were whipped, but in other instances the advertisers were somewhat more definite. When in March of 1747 T. Stansbury of Baltimore County advertised for his runaway servant John Hyde he claimed that Hyde, who had already "lost a Piece of one of his Ears," was "as great a Villain as . . . [the] Age . . . [could] produce" and noted that he had recently been severely whipped for breaking into Stansbury's cellar.<sup>34</sup> When Paul Rankin of Prince George's County advertised for his runaway convict servant Sarah Davis in April of 1758 he noted that she had "many Scars on

her Back occasioned by severe Whippings from her former Master.”<sup>35</sup> According to John Legg of Kent Island when he advertised for his runaway convict servant Joseph Haines in November of 1767, Haines’ body was “much scarified.”<sup>36</sup> In their advertisement for their runaway convict servant Thomas Moore in August of 1769 Aquila Hall and Amos Garrett of Baltimore County pointed out that Moore had been “severely whipt, which appears on his Back now in Scars.”<sup>37</sup> Thomas French of St. Catharine’s in the Allegheny Mountains pointed out in December of 1770 that his runaway convict servant Thomas Burn was “remarkably cut on the Buttocks by a Flogging he received from a former Master.”<sup>38</sup> And when in July of 1771 Daniel Chamier of Baltimore advertised for his runaway convict servant William Springate he noted that Springate bore “the Marks of a severe Whipping given him lately for breaking into a house.”<sup>39</sup>

There are other indications that servants were often badly disfigured, but in these instances there is no way to know whether the damage resulted from mistreatment or from some sort of accident. The servant often had a noteworthy scar on his forehead<sup>40</sup> or on his nose,<sup>41</sup> or he might have a dent in his forehead.<sup>42</sup> He might have lost an eye,<sup>43</sup> some of his teeth,<sup>44</sup> part of an ear,<sup>45</sup> or one of his toes.<sup>46</sup> Any of these damages could have resulted from accidents or from the normal violence of life in the eighteenth century, but they also could have resulted from the careless cruelty of masters.

Sometimes a severe whipping might actually have represented mercy. Since the servant could be hanged for breaking into his master’s buildings,<sup>47</sup> John Hyde might have considered himself fortunate when his only punishment for breaking into T. Stansbury’s cellar in 1747 was a severe whipping,<sup>48</sup> just as William Springate, the runaway convict servant of Daniel Chamier or Baltimore County, might have felt

fortunate in 1771 when he was only whipped after he broke into Chamier's house.<sup>49</sup>

For running away the law provided that the servant should serve ten days of additional servitude for every day that he was gone,<sup>50</sup> though the courts did not always impose the full ten days.<sup>51</sup> From 1704 the servant also had to reimburse his master with additional servitude for the costs of catching him.<sup>52</sup>

But masters might also whip their servants for running away, and sometimes the servant whose master whipped him might not have had to serve the additional time for his absence. In November of 1719 the justices of Prince George's County ordered that Jane Ray, the servant of Ann Head, be discharged from serving ten days for one provided she proved before Joseph Belt, one of the justices of the county, that she had "suffered for the same by Corporall punishment within a fortnight." Whether Jane Ray was able to furnish the proof has not appeared.<sup>53</sup> In June of 1720 the justices of Prince George's County ordered that Cornelius Hayes serve David Condon for forty additional days to reimburse Condon for the costs of taking him up but that since he had already suffered corporal punishment for the running away he serve no additional time. At the same court they ordered Henry Cavy to serve Joseph Hatton for forty additional days to reimburse him for the costs of recapturing Cavy. Like Hayes, Cavy had been gone for four days and had to serve no additional time as punishment for the actual running away, since he had already received corporal punishment for his absence.<sup>54</sup>

But here the justices of Prince George's County might have been pretending to do something that they actually were not doing at all. Hayes and Cavy each had to serve an additional period that was exactly ten times as long as the time he was gone. If it cost their masters little or nothing to recapture them, the justices were still imposing close to ten days for one even though they were pretending that they were

not. There is no way to know how much it cost Condon and Hatton to capture Hayes and Cavy, but since the two had been gone for only four days it might have cost their masters very little.

While whipping was probably the most common punishment of servants, the planters of eighteenth-century Maryland also had to find what they must have hoped would be more effective instruments for their discipline and control. Devices that were designed both as punishments and as controls were the iron collar and shackles.<sup>55</sup> The use of these devices was not at all uncommon: from 1745 through 1775 at least nineteen servants and thirty-three convict servants<sup>56</sup> were advertised as wearing iron or steel collars.<sup>57</sup> And these are only the ones who managed to run away in spite of their irons. The convict servant Robert Life had a scar on his throat as though he had worn an iron collar earlier.<sup>58</sup> Hannah Boyer, a convict servant, “had a Horse Lock and Chain on one of her Legs”;<sup>59</sup> two convict servants and two servants “had Iron Darbies and Chains on their Legs”;<sup>60</sup> and William Philips, an elderly man who was committed as a runaway, had shackles around his ankles.<sup>61</sup> Servants often had either sores or scars on their legs, often no doubt from having worn irons.<sup>62</sup>

Quite often a servant wore both an iron collar and shackles. Benjamin Tasker’s convict servant John Berry wore both an iron collar and handcuffs when he ran away from Thomas Rowles in Anne Arundel County in 1734. But he had already escaped once and was being taken home from jail.<sup>63</sup> John Beall’s non-convict servant Richard Wiggan alias Farmer “had Irons on his Neck, and on one Leg” when he ran away from John Tayloe in Baltimore County in 1759.<sup>64</sup> Richard Croxall’s convict servants Samuel Davenant, alias Pryton, and Samuel Flood “had Collars and Leg-Irons on” when they ran away from Hockley Forge at the head of the Patapsco in 1768.<sup>65</sup> John Peacock, a convict servant, wore “an iron collar and irons on his

ancles” when he ran away from John Hood and Mordecai Selby of Anne Arundel County in 1775.<sup>66</sup> Pot-bellied and flat-nosed William Norris and the much pitted John Bessy, both of whom were non-convict servants for whom Edward Stevenson of Frederick County advertised on 2 August 1775, “had iron collars on their necks, and darbies on their legs.” Besides that both, and especially Norris, were pretty well scarred.<sup>67</sup>

Sometimes the reasons for the master’s keeping his servants in shackles and collars are obvious. Many of the servants worked at one or another of the iron works,<sup>68</sup> and there the work was probably so difficult and so dismal that often the only way to hold on to the servants at all must have been to keep them chained.<sup>69</sup> In other instances the servants might have run away earlier. When in June of 1753 Richard Croxall of the Baltimore iron works advertised for Charles Carroll’s runaway convict servant John Oulton he said nothing about Oulton’s wearing an iron collar, but when he advertised for Oulton again fifteen months later he did note that Oulton, who had been in the country for about four years, was wearing a steel collar.<sup>70</sup> When in August of 1766 William Goodwin and John Holliday of Baltimore County advertised for their runaway convict servant John Garraughty they did not mention anything about an iron collar, but when Charles Ridgely Sr. of Baltimore County advertised for him again seven weeks later he did point out that when Garraughty ran off he was wearing an iron collar.<sup>71</sup> William Gafford, a convict servant for whom Thomas Hawkins of Curtesses Creek advertised in March of 1774, was wearing an iron collar and fetters, but he had already run away sundry times.<sup>72</sup> Gafford was a convict servant, and even when he ran away earlier he had scars on his throat.<sup>73</sup>

In other cases convict servants might have been wearing irons because they had only recently arrived in the province. When in August of 1754 Richard Croxall of

Baltimore County advertised for his runaway convict servant Robert Cox, who was wearing a steel collar, he pointed out that Cox had just been imported on the ship *Apollo*.<sup>74</sup> When in September of 1762 Joseph Watkins of the Patapsco Furnace near Elk Ridge Landing advertised for his two convict servants George Seymour and Stephen Hawkes he noted that Seymour had been in the province only since 1759, that Hawkes had been in Maryland only since February of 1762, and that both of them had run away before. He also noted that they had “Iron Darbies and Chains on their Legs,” but he had no doubt that they would soon get them off.<sup>75</sup> When in January of 1764 Joseph Watkins advertised for Mordecai Kelley’s eighteen-year-old convict servant Margaret Tasker, who had also run away from Patapsco Furnace, he noted that she was wearing an iron collar, that she had lost one eye, and that she had been in the province only since the previous November.<sup>76</sup> When in May of 1775 the two Thomas Cockeys, junior and senior, of Baltimore County advertised for their runaway convict servant Richard Dawson, who had been in the country for less than a year, they noted that he was wearing “an iron collar double rivitted.”<sup>77</sup>

Finally, the servant might have to wear an iron collar because he was suspected of a crime. When in December of 1769 George Randell of Baltimore County advertised for his runaway convict servant Edward Hooper he noted that Hooper, “being under a Prosecution for housebreaking,” was wearing an iron collar when he ran off.<sup>78</sup>

In some cases therefore the master who kept his servant in irons must have had good reason to believe that the servant would run away if he got the chance. But in many other cases the master must have kept his servant shackled or collared even though he did not have any specific reason to believe that he would run away. When in June of 1750 John Sedgewick ran away from Charles Griffith of Anne Arundel

County he had on an iron collar even though there is no advertisement that he had ever run away before. He did not work in any iron works, and he was not a convict, although Griffith did point out that he was “a great Lyar and Thief.”<sup>79</sup> Similarly, when George Eccland ran away from Christopher Lowndes of Bladensburg late in July of 1752 he was wearing an iron collar even though there is no advertisement that he had run away earlier. Like Sedgewick, Eccland was not a convict and did not work in any iron works.<sup>80</sup>

The servant, whipped and chained and collared, often must have despaired not only at these punishments but also at the prospect of them, and the despair no doubt sometimes led to suicide or attempted suicide. After Elisha Williams, the servant of John Senhouse of Annapolis, drowned himself in 1747 a coroner’s jury decided that the cause of his suicide was that he had been “ill used by *Hannah Senhouse*, his Mistress.” When Jonas Green reported the incident he noted that the coroner in his charge to the jury pointed out that “too often [the] rigorous Usage and Ill-treatment of Masters . . . was the Cause of many Servants making an End of themselves one Way or other.”<sup>81</sup> When Charles Ridgely Sr. of Baltimore County advertised for his convict servant John Garraughty in September of 1766 he pointed out that Garraughty had “a large Scar across his Throat where he . . . [had] attempted to cut it,”<sup>82</sup> and when Samuel Norwood of Baltimore County advertised for his convict servant Joseph Manyfold in April of 1773 he noted that Manyfold had a scar on his throat that he believed “to be cut by himself.”<sup>83</sup>

Harsh treatment must also have been one of the reasons why servants deliberately maimed themselves, though of course the planters blamed the maiming on laziness. In February of 1728/9 William Parks reported in the *Maryland Gazette* that “An idle Servant” belonging to Samuel Hastings, a ship-carpenter from Annapolis,

was “seiz’d with a Fit of Laziness, [and] absented himself from his Business for some Days.” Hastings caught him, though, and “set him to his Sawing-Work as usual.” Since this work did not agree “with his Constitution,” however, “he chose rather to disable himself, than be oblig’d to Work,” and therefore about two weeks before Parks made his report the servant chopped off one of his hands with a broad ax.<sup>84</sup>

There is no way to be sure just how serious an effort authority made to protect servants from the harshness of their masters,<sup>85</sup> who did sometimes have to pay fines for mistreating them. In June of 1735 William Merriot of Anne Arundel County paid a fine of five shillings for beating Robert Harman,<sup>86</sup> and in August of 1741 the justices of that county fined John Parr five pounds current money for his rigorous treatment of several of his servants.<sup>87</sup> In March of 1736 the justices of Queen Anne’s County fined Walter Kirby thirty shillings after Rebecca Stead complained of his cruel treatment of her.<sup>88</sup> And in June of 1756 the justices of Charles County fined Jacob Andrew Minetry two hundred pounds of tobacco for his ill treatment of Joseph Marthington, one of his servants.<sup>89</sup>

The justices of Prince George’s County also sometimes fined masters for the mistreatment of their servants. In March of 1718/19 they ruled that since David Jones had so disabled one of his former servants that when he received his freedom he had become a charge to the county and since he had treated three of his female servants with “hard usage and barbarity” he should pay a fine of five hundred pounds of tobacco. The justices also warned Jones that if he did not act better toward his servants in the future they would take further action against him.<sup>90</sup> In November of 1719 they fined Thomas Wainwright one thousand pounds of tobacco for abusing two of his servants and ordered him to give security to guarantee that he would not mistreat them in the future. If he could not give the security during that court the two

servants would be freed. No evidence that Wainwright did give the security has appeared.<sup>91</sup> In March of 1719/20 the justices of Prince George's County fined Thomas Hynes four hundred pounds of tobacco for abusing his servant Nicholas Fling and jailed him until he could pay it. The justices also ordered that "the Iron Collar be taken off . . . [Fling's] neck forthwith."<sup>92</sup> Apparently the fine did nothing to improve Hynes' behavior: in June of 1720 the justices fined him one thousand pounds of tobacco after Fling again complained against him.<sup>93</sup>

Very seldom was a servant freed because of the bad treatment he received, but it might happen.<sup>94</sup> In 1692 the assembly freed a mulatto servant in St. Mary's County after Thomas Courtney cut off both her ears and "barbarously dismembred" her,<sup>95</sup> and in 1748 James Salisbury lost the service of Thomas Watts. In a petition to the Queen Anne's County court for March of 1748 Watts pointed out that his mother had bound him to Salisbury by an indenture that Salisbury himself wrote. Because of her ignorance, however, Mrs. Watts did not know what the indenture meant, and as a result Salisbury not only had kept Watts ever since he was an infant without taking "Care to provide any Nesessarys [*sic*] sufficient for humane subsistance" but also could not teach Watts a trade. Watts therefore petitioned the court to allow him to choose a new master who was a tradesman and who, he apparently hoped, would keep him better. After hearing Salisbury's response to Watts' complaint the justices released Watts from his service. Salisbury had to pay the costs of the petition. The justices said nothing about assigning Watts to a new master.<sup>96</sup> Finally, in August of 1756 the justices of Baltimore County ordered that Mary Kimbely be released from the service of John Hanson because of Hanson's "excessive & illegal beating and ill using her."<sup>97</sup> These however are exceptional cases, and very few masters lost their servants because they mistreated them.

At first glance it might appear that George Cotteral received his freedom because of the cruelty of his master, but Cotteral had served his full time when the justices of Anne Arundel County ordered him freed. At the Anne Arundel County court for June of 1740 John Parr informed the justices that he and Cotteral disagreed on the runaway time that Cotteral owed Parr and the freedom dues that Parr owed Cotteral. The justices decided that because of the bad treatment that Cotteral had suffered during his servitude and because Cotteral had served from 2 July until 22 July “over & above his first term of Servitude in full [satisfaction] of all runaway time & Charges” he be discharged from Parr’s service and that Parr pay him his freedom dues. The justices also ruled that Parr pay all of the costs that accrued on the complaint.<sup>98</sup> Thus Cotteral had served his full time, and there was no real reason for the justices to mention the bad treatment except as a concession to reality.

Usually the court was content simply to warn the master who abused his servant. The fine, of course, was an implicit warning, but often the justices warned the master without combining the warning with a fine or any other punishment.<sup>99</sup> At the Charles County court for March of 1706/7 Mary Cammell complained against her master, Samuel Luckett, “for Unreasonably beating and Abuseing her.” The justices must have agreed that she had a legitimate complaint, since they admonished Luckett to treat her “more milder” and to punish her less severely in the future. Then they ordered her to return to Luckett’s service.<sup>100</sup> When at the Baltimore County court for August of 1719 Kate Kerevan complained that her mistress had kicked her in the belly the justices ordered Dorothy Cutchin to examine her. When Mrs. Cutchin reported that it appeared that Kate Kerevan had been kicked in the hips the court merely ordered her master, John Roberts, to see that it did not happen again.<sup>101</sup> When at the Anne Arundel County court for November of 1720 Michael Smith complained

that Peter Galloway had excessively beaten and abused him the justices ordered him to return to Galloway's service and ordered also that the clerk send Galloway a letter warning him that since it appeared to the justices that he had "already Given . . . [Smith] Very Great Abuses beyond reason" he treat Smith better in the future. If he did not, the justices would proceed against him according to law.<sup>102</sup> In June of 1721, when Charles Wade complained to the justices of Anne Arundel County against Joshua Mayho they decided that since according to their information Mayho generally treated his servants contrary to law and since he had ignored their warning after Wade's earlier complaint the court or any one of the justices could proceed against him if he did not treat Wade better in the future.<sup>103</sup> And when in November of 1740 the convict servant William May complained that Meredith Davis had mistreated him so seriously that he had lost the use of one of his arms the justices of Prince George's County merely warned Davis to treat May better in the future.<sup>104</sup>

The servant might get about the same results if he petitioned the provincial justices. At the provincial court for October of 1721 Jane Eason, a widow and "a Very Poor Woman" from Annapolis, petitioned that she had served George Cummerford honestly and faithfully for three years but that as a result of his barbarous treatment, including violent beating and "Cold Sterving Lodging," she had become incapable of working. She had "Extreem Painfull Rheumatism" in all of her limbs, and besides that for more than two years she had had "a dangerous Eating Ulcer" on one of her legs. Because she could not work Cummerford had turned her out, and before she left he forced her to agree to give up her freedom dues. The result of all of this was that she could not afford to go to a doctor and had no way to support herself. She lived in pain and misery, and she hoped that the justices would order Cummerford, in whose service and by whose inhuman and unchristian treatment she had

become “this Miserable object,” to do something for her relief while he was still available. After considering the petition as well as Cummerford’s response the justices ordered Jane Eason to return to his service and ordered him to take care of her and to do what he could to cure her “Achment.” They recommended that if he refused she apply to the justices of Anne Arundel County for relief.<sup>105</sup>

Richard Evans was at least a little more successful than Jane Eason was. When at the provincial court for April of 1742 he complained that his master, Thomas Rutland, had beaten and abused him the justices ruled that since it appeared to them that Rutland had indeed beaten and abused Evans very unmercifully he should give security of fifty pounds current money with two sureties of twenty-five pounds each to guarantee his good behavior in the future. When Rutland could not give the security immediately the justices committed him to jail, but later Thomas Gough and John Ramsey became his sureties and the justices discharged him.<sup>106</sup>

One of the recourses of the free man against anyone who mistreated him or threatened him was to swear the peace against that person. He simply went before the court and explained what the person had done or had threatened to do, and the justices then forced that person to enter bond to guarantee his good behavior and his appearance before the following court.<sup>107</sup>

But, as Henry Gerrard found out, that recourse was not available to a servant. On 6 June 1704 John Dansey complained to Governor John Seymour and his council that Gerrard, Dansey’s servant and a schoolmaster, had sworn the peace against him. Dansey had recently taken Gerrard before the council for “having behaved himself very refractorily and Imprudently,” and when Gerrard threatened “to lay his wife Sprawling,” Dansey “corected [*sic*] him for his ill behavior and broake his head.” To Gerrard that correction must have seemed more severe than he deserved, but more

than that he was afraid of what Dansey might do to him in the future. He swore the peace against both Dansey and his wife before Kenelm Cheseldyn, one of the members of the council, and Cheseldyn issued a warrant for the arrest of the two. When Dansey complained to the council that Gerrard had sworn the peace against him and that Cheseldyn had issued a warrant against him and his wife, the council decided that it was “not usuall to Suffer Servants to Swear the peace against their Masters,” since that “might be very inconvenient.” Since Cheseldyn was not present the council decided that the clerk of the council, William Bladen,<sup>108</sup> should write to Cheseldyn to tell him “not to Countenance the said Gerrard.”<sup>109</sup>

There are five possible reasons why few servants were released as a result of their master’s mistreatment of them. First, in spite of the recorded instances of cruel treatment masters might generally have treated their servants very well. This possibility seems extremely remote in view of the fines for mistreating servants, the warnings to treat servants better in the future, and the great number of servants who had to petition the various courts before their masters would free them<sup>110</sup> or grant them their freedom dues<sup>111</sup> or even return their own possessions to them.<sup>112</sup> Probably it is safe to dismiss this possibility.

Second, the masters might have learned something from the experience of being warned or fined and therefore might have treated their servants better in the future than they had in the past. This possibility seems almost as remote as the first one.

Third, masters might have been careful to spread the abuse around so that there were few third offenses.<sup>113</sup> The spreading of the abuse might result partly from the deliberate contrivance of the master but might result also from his conscious or unconscious sympathy for the servant whom he or somebody else had recently

beaten.<sup>114</sup> Beyond the possible sympathy, the beating might provide the assailant with a sort of contentment at having satisfied a grudge or a smoldering anger, and he could turn his grudges and his anger against other people.

There are two more obvious reasons why the justices seldom freed servants because of the cruelty of their masters. In the first place, often the servant must have been reluctant to complain against his master.<sup>115</sup> Knowing as he did that if the justices thought that his complaint was frivolous he might be whipped,<sup>116</sup> and knowing also that the justices, who often must have had servants of their own, would be prejudiced in favor of the master to begin with<sup>117</sup> and even if they did find that his complaint was justified they might return him to his master<sup>118</sup> to face the possibility of even harsher treatment, the servant must often have believed that discretion required that he accept as much mistreatment as he could stand before he petitioned the court. It was not always easy to draw the line between what the elite in this exploitive economic, social, and political structure considered legitimate and excessive correction, and surely officials wanted to be sure that if they erred they erred in favor of the master.

The most important reason for the courts' failing to free servants who were the victims of their masters' barbarity must be that the planters of the eighteenth century had a very high tolerance for cruelty as long as it was directed against the less fortunate classes. One of the myths of American history is that during the colonial period masters usually treated their servants generously and that in the few instances in which they did not the servants could rely on the justices, who, if they were not compassionate or at least sensitive to their own economic self-interest, were supposed to see that the servants were treated properly and to protect them once they — the justices — became aware of mistreatment. The invalid servant, after all, would

be drain on the entire economy.<sup>119</sup>

Having a witness to support the master probably only made the justices' decision all the easier. When at the Anne Arundel County court for August of 1736 Richard Ingram complained that the Reverend James McGuill misused him McGuill argued that Ingram deserved the correction he got. One Margaret Hughes agreed, and the justices ordered that Ingram return to McGuill's service.<sup>120</sup>

No doubt one of the reasons why servants ran off as often as they did is that they knew that they could not expect justice in court and that therefore the only way to escape mistreatment was to disappear altogether. Similarly, harsh treatment combined with the despair about ever receiving justice must have been a major cause of the suicide or the attempted suicide of servants<sup>121</sup> and of their deliberately maiming themselves.<sup>122</sup>

The justices often made only the most casual effort to protect the servant. Margaret Brown's condition is an example. In June of 1721 she complained to the justices of Anne Arundel County that she "had the Misfortune to be sould [*sic*] to a harsh master and Mistress" who did not allow her sufficient clothes to keep her warm. As a result she had run away, and for running away she was assigned four years of additional servitude. Afterwards her former master sold her "to one ffabian" in Annapolis, but Fabian soon left the province and sold her to Charles Rivers. Because she did not have shoes during her first servitude one of her feet was frostbitten so seriously that if she were free she would be unable to support herself. But Charles Rivers was in prison for debt, and his wife was not able to provide a doctor for her. She therefore asked the court either to set her free or "to Procure a Surgeant" to take care of her foot. The justices ordered that if Rivers did not get her cured soon she would be set free to take care of herself.<sup>123</sup> What happened then to Margaret

Brown has not appeared, but clearly the justices showed no exaggerated concern for her. Rivers in jail was unlikely to be able to do much for her, and with her badly damaged foot she would not have had an easy time taking care of herself.

William May's predicament also illustrates that the justices were often very cavalier in their alleged concern for servants. In November of 1740 May complained to the justices of Prince George's County that his master, Meredith Davis, abused him "in a most vile & Barbarous manner" and made him "work Night & day & . . . prophane . . . [the] holy Sabbath" by forcing him to work on that day "or else receive such Inhuman Usage as . . . [had] already disabled him from getting . . . his Livelyhood" if he ever received his freedom.<sup>124</sup> Davis had already crippled one of his arms. May offered to show the justices "Ocular proof" of the abuse that he daily received, and he asked the justices to "proceed in . . . [their] great Generous & Compassionate manner as [out] of . . . [their] Goodness . . . [they were] Accustomed to." The justices, apparently only slightly moved by May's ocular proof and his conventional flattery, did agree that he had a just cause for complaint, but they simply ordered Davis to treat him better in the future.

In August of 1741, when May petitioned again, the justices of Prince George's County revealed further just how much success the mistreated servant could expect. When May pointed out that Davis had refused to provide treatment for the damage that his "Inhuman and barbarous usage" and his unmerciful blows had caused to his right arm, with the result that the condition of the arm was becoming worse and worse so fast that he expected that by the time he was free from Davis' service he would be incapable of earning his own living and therefore would be forced to become burden to the county, the justices refused his request that they force Davis to find treatment for the arm.<sup>125</sup> May's being a convict servant<sup>126</sup> might or might not

have had something to do with the justices' lack of sympathy for him.

John Williams might have been in worse condition than either Margaret Brown or William May, and the justices of Prince George's County do appear to have had at least a little sympathy for him. In August of 1720 he told the justices that "by hard usage" he had lost one of his feet and was sold to Robert Saunders before his injury was cured. Saunders had promised to seek for a remedy for him, but until this time he had done nothing except to send him to Joel Vernall's wife. Saunders would do nothing more for him even though he was "obliged to take Physick every other day to stopp the humour attending his wound."

Whether Williams had lost his entire foot or had only lost the use of it is not clear, but in response to his request for relief the justices ordered Saunders either to have Joel Vernall's wife immediately provide sufficiently for Williams or else "take him home and Employ a Doctor for his cure with all speed."<sup>127</sup> What happened after that has not appeared.

The planter's mistreatment of servants sometimes resulted in the death either of the servant or of someone else. In 1755 John Hill accidentally killed an infant. While he was taking a servant woman home on Kent Island he struck her several times with a switch, but the switch reached the head of the child the woman was carrying in her arms and killed it on the spot. Apparently Hill was not prosecuted for the child's death.<sup>128</sup>

Something similar happened to a hostler in 1766. When a man to whom Jonas Green refers as Mr. T. stopped at a tavern in Bladensburg he and the hostler went into the stable to see about feeding Mr. T.'s horse. The hostler soon staggered out of the stable and died before he could be bled. Mr. T. protested that he "only gave him a Box on the Ear," and apparently he was not prosecuted.<sup>129</sup>

While the infant and the hostler apparently died very quickly, John Bracker's servant Samuel Glassaway suffered over several days. On 31 January 1700/1 Bracker,<sup>130</sup> a blacksmith from Charles County, beat Glassaway on the head and the body with a hickory stick. On 2 February he beat Glassaway with a wooden pole and kicked him in the head and the body. Then he stretched out Glassaway's arms and tied one wrist to each end of a stick and hoisted him to a limb of a peach tree and left him hanging there for five hours. On 6 February he beat Glassaway in the body and the head once more with a pole and then drove him out of the house into the "cold and freezing weather." Glassaway died the next day. At the provincial court for April of 1701 the grand jury indicted Bracker for murder, a petit jury found him guilty, and the justices sentenced him to hang.<sup>131</sup>

But Bracker had friends. On 16 May Governor Nathaniel Blakiston and his council sitting as the upper house considered the petition of twenty-five men, including one member of the grand jury that indicted Bracker, one member of the petit jury that found him guilty, and one of the justices who condemned him. The twenty-five asked Blakiston to reprieve Bracker. They agreed that the jury had justly found him guilty, but sensible of Blakiston's great clemency and mercy they hoped that considering Bracker's great age and the grossness of his crime Blakiston would grant him a reprieve and "not Suffer his grey hairs to come to so untimely an End." Why the grossness of Bracker's crime should work in his favor the petitioners did not explain, but they hoped that Blakiston's "favour being so graciously Extended unto him" would cause Bracker to "make true repentance for all his former Crimes" and cause him to become "a new man in Eys [*sic*] of Almighty God . . . ." With the advice of his council Blakiston reprieved Bracker until the king could decide his fate. The reprieve, the members of the council hoped, might result in Bracker's sincere

repentance. In order to avoid the expense of Bracker's prison fees the members of the council also suggested that he enter security to guarantee his appearance whenever the council might require it.<sup>132</sup> What finally happened to Bracker does not appear, but no evidence that he was ever hanged has appeared.

When a petit jury acquitted the person who was charged with the murder of his own servant there is no way to know whether the jurors acquitted him because they did not believe that he was responsible for the death or because they believed that although he was responsible he was not guilty of any crime. If they had considered him guilty of a crime less than murder they could have brought him in guilty of manslaughter.<sup>133</sup> In September of 1687 the grand jurors at the provincial court charged that on 2 January 1686/7 Richard Sweatnam, an inn-holder from Talbot County, forced his servant Issabell Jacob out of his house even though she was "lame sick and infirme and und<sup>r</sup> her Infirmitie then and there Labouring" and had neither "shooes [n]or Stockins [n]or other Necessary Cloathing to preserve her from [the] cold and weather." As a result of that "hard and ill Usage," the grand jurors charged, Issabell Jacob starved to death, and they charged Sweatnam with murder. After a petit jury found Sweatnam not guilty the justices cleared him by proclamation and then discharged him with the order that he appear at the Talbot County court for November of 1687, where again he would be cleared by proclamation.<sup>134</sup>

Whether the orphan child Susanna Petteete was a servant or only a dependent does not appear, but her apparent experience nevertheless illustrates how cavalier the treatment of a dependent might be. At the provincial court for October of 1693 a grand jury charged that on 18 January 1692/3 Katherine Johnson of Baltimore County murdered Susanna Petteete by hitting her on the skull with an unspecified instrument, but a petit jury found her not guilty of the alleged murder.<sup>135</sup>

While these cases might make it appear that a master could do pretty much as he chose with his own servant, he might not want to risk trial for the death of his servant. In February of 1754 Jonas Green reported that a few days earlier Thomas Cartwright of Kent County “beat a Servant of his so barbarously that he died a short Time after,” that the coroner’s jury had brought in a verdict of wilful murder, and that Cartwright had run off. He added that both Cartwright and the servant were “much in Liquor” and that when Cartwright was drunk he was “of a morose . . . [and] quarrelsome Disposition.”<sup>136</sup> Apparently a planter’s killing his own servant did not worry Jonas Green very much.

If a person could treat his own servant pretty much as he pleased, it was a crime to beat someone else’s servant. At the provincial court for April of 1701 the grand jurors charged that on 27 February 1699/1700 William Martin of Talbot County assaulted two unnamed servants belonging to William Rich and with “Swords Staves & knives . . . did beate wound and Evill[y] intreate [them] for that [*sic*] of their lives they did dispaire and other harmes to them . . . did doe.” Martin pleaded not guilty, but a petit jury found him guilty, and the justices fined him twenty-five shillings sterling.<sup>137</sup> One dared not mess around with other people’s property.

Masters of servants might have mistreated them not only because of their own fundamental nastiness but also because they were afraid of them,<sup>138</sup> even though they continued to buy them and to employ them. Various colonies, however, tried to keep convict servants out because of the belief that they were dangerous.<sup>139</sup>

In 1676 the assembly of Maryland outlawed the importation of convicts,<sup>140</sup> and that act was continued several times.<sup>141</sup> In 1692 the assembly passed a new law,<sup>142</sup> but that act was repealed.<sup>143</sup> As an alternative to exclusion, the assembly in October

of 1723 wrote into law the requirement that the master of any vessel that brought servants to the province had to provide the naval officer with the names of any convicts among them, that anyone who bought a convict servant had to give bond of thirty pounds current money to guarantee the convict's good behavior, that he renew the recognizance every year, and that he report to a provincial or county justice the sale of a convict servant.<sup>144</sup> The proprietor disallowed that law,<sup>145</sup> but in 1728 the assembly passed another act to keep track of imported convicts, and this one survived.<sup>146</sup>

The act of 1728 provided that any master of a ship who imported convicted felons had to provide a record of the crime of each offender and the number of years of servitude to which each of them had been sentenced. The records would be lodged in the offices of the clerks of the counties in which the felons were sold. Any person who imported servants, by land or by water, had to declare to the appropriate naval officer on oath, or on affirmation if he was a Quaker, whether he knew whether any of the servants had been convicted of any crime or crimes, and if so what crime or crimes. Anyone who had been convicted of a felony or other offence would serve the same term of servitude as was prescribed by the laws of England, regardless of any private agreement the importer had made with the purchaser. Any importer who refused to take such an oath or make such an affirmation would forfeit one hundred pounds current money, and any naval officer who neglected to administer such an oath or affirmation would forfeit the same amount. Anyone who made a false oath or affirmation would be subject to prosecution for perjury.<sup>147</sup>

Clearly the lives of servants in eighteenth-century Maryland, whatever category they fit into, were very difficult. The elite authority and its functionaries did not

consider either servants or slaves a real part of the province or apparently even the Crown's direct subjects but considered them instead a separate world. Governor John Seymour back-handedly defined their positions when he told the assembly at the opening of its session on 5 December 1704 that he hoped that in the future "every member of the Province . . . [might] Enjoy the fruits of his Labour and Industry in peace and Satisfaction."<sup>148</sup> To Seymour, therefore, servants and slaves must not have been members of the province. Similarly, at its opening on 2 April 1706 Seymour told the assembly that he hoped that all of the queen's "Subjects abroad . . . [might] truly reape the Benefitt of their Industrye & Labour equall with those imediately [*sic*] under the gracious Influences of her Royall View and Patronage."<sup>149</sup> Servants and slaves did not live immediately under the protections of the Crown, but they lived first of all under the control and disposition of their masters.

The wealthy planters and merchants as well as the rest of the free population of eighteenth-century Maryland had a great tolerance for exploitation and pain — of others —, and often servants and slaves were the helpless victims of that casual tolerance. Their lives were in the hands of their masters, who could treat them pretty much as they pleased without having to pay a serious price for their own misbehavior. Sometimes the courts or the assembly did make pale efforts to limit the abuses, but those apparent efforts appear most often to have been only pretenses.

How much better off servants were than slaves in colonial Maryland, if they *were* better off, nobody will ever know. What we do know is that the lives of both were very harsh. Many of them must have lived their lives not only with constant physical pain, from mild to moderate to intense to excruciating, but also with the psychological pain of never knowing what their masters might do to them next. The

records of the period clearly illustrate that toward both servants and slaves there was in the masters precious little of the beneficence and generosity that we have heard so much about in the past.

According to William Eddis, writing in 1770, convict servants were in an even worse position than slaves were. Because slaves were valuable property for life, while the convict servant's term was usually only seven years, the slaves were the more valuable, and therefore they almost always lived "under more comfortable circumstances than the miserable" convict servants. Over convict servants the "rigid planter" exercised "an inflexible severity." They were "strained to the utmost to perform their allotted labor," and, though Eddis agrees that there were doubtless many exceptions to his observation, he says that generally speaking convict servants "groan[ed] beneath a worse than Egyptian bondage." Trying "to lighten the[ir] intolerable" burden, they often tried to escape. They seldom succeeded, however, and their attempts made their lives even "more insupportable."<sup>150</sup>

The available evidence makes it quite apparent that the "inflexible severity" with which Eddis credits the masters of convict servants was also applied to other servants and to slaves. Which class of people in colonial Maryland was the most unfortunate can be debated to no real purpose, but what is clear is that a very large proportion of the population had little or no control over their own lives and were often the victims of the vicious and even sadistic whims of their masters.

## Part I. Servants

### Notes

<sup>1</sup> Richard Hofstadter, *America at 1750: A Social Portrait* (Vintage edition; New York: Random House, 1973), p. 131; Jackson Turner Main, *The Social Structure of Revolutionary America* (Princeton: Princeton University Press, 1965), pp. 22, 42-43, 60-61, 66-67, 113, 158-159, 174-175, 273-274; Aubrey C. Land, "Economic Base and Social Structure: The Northern Chesapeake in the Eighteenth Century," *Journal of Economic History*, XXV, No. 4 (December 1965), pp. 639-654; Robert E. and B. Katherine Brown, *Virginia, 1705-1786: Democracy or Aristocracy?* (East Lansing, Mich.: Michigan State University Press, 1964), pp. 42-46; Robert E. Brown, *Middle-Class Democracy and the Revolution in Massachusetts, 1691-1780* (Ithaca: Cornell University Press, 1955), pp. 19-20.

<sup>2</sup> Brown and Brown, *Virginia, 1705-1786*, pp. 3, 26; Brown, *Middle-Class Democracy and the Revolution in Massachusetts*, pp. 1-20, especially pp. 1, 11, 13, 17.

<sup>3</sup> Russell R. Menard:

Some men were always able to use servitude as an avenue of mobility, but, over the course of the [seventeenth] century, more and more found that providing labor for larger planters, first as servants and later as tenants, was their permanent fate.

Russell R. Menard, "From Servant to Freeholder: Status Mobility and Property

Accumulation in Seventeenth-Century Maryland,” *The William and Mary Quarterly*, XXX, No. 1 (January 1973), p. 64.

<sup>4</sup> Abbot E. Smith is probably unfair to servants as a group when he says that

The servants . . . were for the most part men and women of low grade, lazy, unambitious, ignorant, prone to small crimes and petty evasions, an unsavory and sometimes a dangerous class especially in those regions where there were many transported convicts.

Abbot E. Smith, *Colonists in Bondage: White Servitude and Convict Labor in America, 1607-1776* (Chapel Hill: University of North Carolina Press, 1947), p. 245.

Similarly Samuel McKee Jr.:

. . . despite the usual description of indentured servants as skilled craftsmen in advertisements and other references to them, it is hard to avoid the belief that frequently as workers they were clumsy, lazy and inefficient; artificers in name only.

Samuel McKee Jr., *Labor in Colonial New York* (New York: Columbia University Press, 1935), p. 51.

If these people are right, the fact that the servants were doing most of the work and receiving few of the rewards might have had something to do with their behavior.

<sup>5</sup> C. Ashley Ellefson, “The Functions of Punishments in Eighteenth-Century Maryland,” unpublished paper delivered at Conference on the History of Maryland, Annapolis, 14-15 June 1974; C. Ashley Ellefson, “Seven Hangmen of Colonial Maryland,” Chapter 6, “Character and Competence,” at <http://aomol.net/megafile/msa/speccol/sc2900/sc2908/000001/000819/html/index.html>.

<sup>6</sup> For the idealization of southern planters, see Thomas Jefferson, *Notes on the State of Virginia* (Torchbook edition; New York: Harper and Row, Publishers, 1964), p. 155; Henry Bamford Parkes, *The United States of America: A History* (3rd edition; New York: Alfred A. Knopf, 1968), p. 207; Clement Eaton, *The Freedom-*

*of-Thought Struggle in the Old South* (Torchbook edition; New York: Harper and Row, Publishers, 1964), pp. 3, 23; Wesley Frank Craven, *The Southern Colonies in the Seventeenth Century, 1607-1689* (Baton Rouge: Louisiana State University Press, 1949), p. 216; James Truslow Adams, *Provincial Society, 1690-1763* (New York: The Macmillan Company, 1927), pp. 82-83; Oliver Perry Chitwood, *A History of Colonial America* (3rd edition; New York: Harper and Row, Publishers, 1961), p. 355; Curtis P. Nettels, *The Roots of American Civilization: A History of American Colonial Life* (2nd edition; New York: Appleton-Century-Crofts, 1963), p. 467; Peter Oliver, *The Meaning of the Blues* (New York: Crowell-Collier Publishing Company, 1963), p. 231; Thomas A. Bailey, *The American Pageant: A History of the Republic* (2nd edition; Boston: Little, Brown and Company, 1961), p. 366; George W. Dalzell, *Benefit of Clergy in America & Related Matters* (Winston-Salem: John F. Blair, Publisher, 1955), p. 226; Nehemiah Adams, *A South-Side View of Slavery*, in Eric L. McKittrick, ed., *Slavery Defended: The Views of the Old South* (Spectrum edition; Englewood Cliffs, N. J.: Prentice-Hall, Inc., 1963), pp. 148-161, *passim.*; W. J. Cash, *The Mind of the South* (New York: Alfred A. Knopf, Inc., 1941), p. 78; George Fitzhugh, *Sociology for the South*, in McKittrick, ed., *Slavery Defended*, pp. 45-46; Ulrich B. Phillips, *American Negro Slavery: A Survey of the Supply, Employment and Control of Negro Labor As Determined by the Plantation Regime* (Baton Rouge: Louisiana State University Press, 1966), pp. 262, 328-330; Ulrich B. Phillips, *Life and Labor in the Old South* (Boston: Little, Brown and Company, 1963), pp. 363, 366; Kenneth M. Stampp, *The Peculiar Institution: Slavery in the Ante-Bellum South* (Vintage edition; New York: Random House, Inc., 1964), pp. 179, 229-231, 312; William R. Taylor, *Cavalier and Yankee: The Old South and American National Character* (Anchor edition; New York: Doubleday & Company, Inc.,

1963), pp. 279-294.

For a simple statement of the myth of the humanitarian character of the southern planters, see Russel B. Nye, *Fettered Freedom: Civil Liberties and the Slavery Controversy, 1830-1860* (East Lansing: Michigan State University Press, 1963), pp. 21-22.

For a challenge to the notion that the southern planters were great humanitarians, see John Hope Franklin, *From Slavery to Freedom: A History of Negro Americans* (3rd edition; New York: Random House, 1969), pp. 63-69, 192-194, 206-207; C. Vann Woodward, *The Burden of Southern History* (Vintage edition; New York: Random House, Inc., 1961), p. 13.

<sup>7</sup> Nurse “was so impudent to her mistress that she could not forbear beating her.” William Byrd, *The Secret Diary of William Byrd of Westover, 1709-1712*, ed. Louis B. Wright and Marion Tinling (Richmond, Va.: The Dietz Press, 1941), 13 May 1709, p. 35. Nurse was “possibly the Mrs. Joanna Jarrett, at this time a widow, who had been housekeeper for Byrd’s father and a witness of his will in 1704.” *Ibid.*, p. 221n. “Two or three days ago the Governor put Gilbert his coachman into prison for his insolence.” *Ibid.*, 27 October 1711, p. 428.

When William Byrd referred to a reprimand there is no way to know whether the reprimand included physical violence. “In the evening I took a walk about the plantation and at night John Bannister and I fell out and I gave him a severe reprimand for speaking surlily to me.” *Ibid.*, 19 February 1711, p. 304.

<sup>8</sup> “I beat Billy Wilkins for telling a lie.” Byrd, *Secret Diary*, 3 March 1712, p. 495. “I was angry with Billy Wilkins for not writing yesterday and gave him a salute on the ear.” *Ibid.*, 31 May 1712, p. 537. “I settled several accounts and caused Billy Wilkins to be whipped for not writing well.” *Ibid.*, 25 July 1712, p. 562. “I

beat Billy Wilkins for lying and writing ill.” *Ibid.*, 21 August 1712, p. 573. “I beat my cousin Susan for not learning to read.” *Ibid.*, 1 February 1711, p. 295. “. . . one of the French was drunk and rude to his captain, for which I broke his head in two places.” *Ibid.*, 2 October 1711, p. 414.

<sup>9</sup> For the attitude toward servants and others of low status in England and Europe, see G. E. Mingay, *English Landed Society in the Eighteenth Century* (London: Routledge and Kegan Paul, 1963), p. 286; Richard Brinsley Sheridan, *The Rivals*, II, i., in Ricardo Quintana, ed., *Eighteenth Century Plays* (Modern Library edition; New York: Random House, Inc., 1952), pp. 434, 435; Tobias Smollett, *Travels Through France and Italy*, in *The Miscellaneous Works of Tobias Smollett*, ed. Robert Anderson (6 vols.; Edinburgh: Mundell & Son, 1800), V, 451-452, 497, 539; Samuel Richardson, *Pamela* (Everyman's edition; 2 vols.; New York: E. P. Dutton & Co., Inc., 1962), I, 116; James Boswell, *Boswell on the Grand Tour: Italy, Corsica, and France, 1765-1766*, ed. Frank Brady and Frederick A. Pottle (New York: McGraw-Hill Book Company, Inc., 1955), pp. 227, 227n., 228, 229, 230, 230n., 236-237; Jacques Casanova, *The Memoirs of Jacques Casanova de Seingalt*, trans. Arthur Machen (6 vols.; New York: G. P. Putnam's Sons, n.d.), II, *To Paris and Prison*, p. 307; IV, *Adventures in the South*, pp. 37, 366; V, *In London and Moscow*, pp. 7, 146; VI, *Spanish Prisons*, pp. 31, 32, 60, 63, 596, 605, 607, 609; “The Lady Who Was Castrated,” in Paul Briens, ed., *Bawdy Tales from the Courts of Medieval France* (Torchbook edition; New York: Harper and Row, 1973), p. 31.

<sup>10</sup> Queen Anne's County Court Judgment Record, 1747-1748, pp. 91-92; Lois Green Carr, “The Development of the Maryland Orphans' Court, 1654-1715,” in Aubrey C. Land, Lois Green Carr, and Edward C. Papenfuse, eds., *Law, Society, and Politics in Early Maryland* (Baltimore: The Johns Hopkins University Press, 1977),

pp. 41-62.

<sup>11</sup> 1681, c. 3, *Md. Arch.*, VII, 201-203; 1692, c. 34, *Md. Arch.*, XIII, 479-481; 1692, c. 81, *Md. Arch.*, XIII, 550-551; 1699, c. 38, *Md. Arch.*, XXII, 527-528; 1699, c. 44, *Md. Arch.*, XXII, 553-555; 1704, c. 25, *Md. Arch.*, XXVI, 266-268; 1715, c. 26, *Md. Arch.*, XXX, 304-305, 307-308; Anne Arundel County Court Judgment Record, Liber I. B., No. 2, pp. 193, 218, 238; *ibid.*, 1740-1742, pp. 2, 22-23, 23-24, 24-25, 88; Liber I. S. B., No. 2, pp. 225, 238-239; Kent County Criminal Record, Liber J. S., No. 23, pp. 15-17; Provincial Court Judgment Record, Liber T. L., No. 3, pp. 144, 150-153, 433-434; Liber W. G., No. 2, pp. 458-459; Liber E. I., No. 6, pp. 299-301, 362; Liber E. I., No. 7, pp. 1, 2, 17-18; Liber E. I., No. 14, pp. 767, 799-800; Liber E. I., No. 15, pp. 155, 156, 162, 163, 165; Liber D. D., No. 1, pp. 522-523.

<sup>12</sup> Smith, *Colonists in Bondage*, pp. 20-22; Warren B. Smith, *White Servitude in Colonial South Carolina* (Columbia: University of South Carolina Press, 1961), pp. 52-54; McKee, *Labor in Colonial New York, 1664-1776*, pp. 89-90; Richard B. Morris, *Government and Labor in Early America* (Harper Torchbook; New York: Harper and Row, Publishers, 1965), pp. 310-322; David Galenson, *White Servitude in Colonial America: An Economic Analysis* (Cambridge: Cambridge University Press, 1981), pp. 13-15; Hester Dorsey Richardson, in *Side-Lights on Maryland History, with Sketches of Early Maryland Families* (2 vols.; Baltimore: Williams and Wilkins Company, 1913), I, 246; William Eddis, *Letters from America*, ed. Aubrey C. Land (Cambridge: Harvard University Press, 1969), pp. 38-40.

<sup>13</sup> Smith, *Colonists in Bondage*, p. 21.

<sup>14</sup> A. Roger Ekirch, "Exiles in the Promised Land": Convict Labor in the Eighteenth-Century Chesapeake," *Maryland Historical Magazine*, LXXXII, No. 2 (Summer 1987); A. Roger Ekirch, *Bound for America: The Transportation of British*

*Convicts to the Colonies, 1718-1775* (Clarendon Paperbacks; Oxford: Clarendon Press, 1990); Morris, *Government and Labor in Early America*, pp. 323-337; Peter Wilson Coldham, *The Complete Book of Emigrants in Bondage, 1614-1775* (Baltimore: Genealogical Publishing Co., Inc., 1988); Peter Wilson Coldham, *Supplement to the Complete Book of Emigrants in Bondage, 1614-1775* (Baltimore: Genealogical Publishing Co., Inc., 1992); Peter Wilson Coldham, *The King's Passengers to Maryland and Virginia* (Westminster Md: Family Line Publications, 1997); Peter Wilson Coldham, *Emigrants in Chains: A Social History of Forced Emigration to the Americas of Felons, Destitute Children, Political and Religious Non-Conformists, Vagabonds, Beggars, and other Undesirables, 1607-1776* (Baltimore: Genealogical Publishing Co., Inc., 1992).

<sup>15</sup> Servants were often required to work harder than slaves. Edgar J. McManus, *A History of Negro Slavery in New York* (Syracuse: Syracuse University Press, 1966), p. 62.

In England people referred to the indentured servant as an indentured slave. Tobias Smollett, *The Expedition of Humphry Clinker* (Modern Library edition; New York: Random House, Inc., 1929), p. 49; Daniel Defoe, *The Fortunes & Misfortunes of the Famous Moll Flanders* (Cleveland: Fine Editions Press, 1953), p. 69. Englishmen also referred to transported convicts as slaves. *Ibid.*, pp. 256-257.

In the act for punishing vagabonds in 1547 Parliament provided that the runaway servant or vagabond become a slave for two years, that if he absented himself for two weeks during that time he become a slave for life, and that if he ran away again he could be adjudged a felon. 1 Edward VI, c. 3, in Danby Pickering, *The Statutes at Large* (109 vols.; Cambridge: Joseph Bentham and Others, 1762-1869), V, 246-247. The Parliament did distinguish between a servant and a slave. See Note

54 below.

<sup>16</sup> 1704, c. 23, *Md. Arch.*, XXVI, 259. Earlier laws were 1692, c. 15, *Md. Arch.*, XIII, 457; 1699, c. 43, *Md. Arch.*, XXII, 551.

<sup>17</sup> The laws of 1704 and 1715 make it clear that the second and third offenses had to involve the same servant as the first. If the master was brought into court for beating two separate servants the two incidents would constitute two first offenses rather than a first and a second offence.

. . . if any Master or Mistress of any Servant whatsoever or overseer by order or consent of any such Master or Mistress shall deny and not provide Sufficient Meat drink lodging and Clothing or shall unreasonably burthen them beyond their strength with labour or debarr them of their necessary rest and sleep or excessively beat and abuse them [\*\*] the same being sufficiently proved before the Justices of the County Courts the said Justices have hereby full power and Authority for the first and second offence to levy such ffine upon such Offender as to them shall seem meet not exceeding one thousand pounds of Tobacco to the use of her Majesty her heires and Successors for the Support of Government and for their third Offence to sett such Servant so wrong'd at liberty and free from Servitude.

1704, c. 23, *Md. Arch.*, XXVI, 259. Though the members of the assembly were very careless with their use of singular and plural the meaning of the law is clear enough. The key words are “such Servant so wrong’d.”

The wording of the act of 1715 is identical to that of the act of 1704 except that in the later act at \*\* in the quote above the assembly added “or shall give them above Ten Lashes for any one Offence” and changed “her Majesty her heires and Successors” to “his Maj<sup>ty</sup> his heirs and successors.” 1715, c. 44, *Md. Arch.*, XXX, 288-289.

<sup>18</sup> Father Joseph Mosley, quoted in Ekirch, “Exiles in the Promised Land,” pp. 103-104, from Thomas Hughes, *History of the Society of Jesus in North America*,

*Colonial and Federal* (London: Longmans, Green, & Co., 1907), I, 342.

<sup>19</sup> The National Archives (PRO), Colonial Office 5, Vol. 724, p. 35 (photocopy in Library of Congress).

<sup>20</sup> *Ibid.*, p. 170.

<sup>21</sup> *Ibid.*, Vol. 725, p. 285.

<sup>22</sup> *Ibid.*, Vol. 726, p. 217. The Board of Trade sent exactly the same instructions to Lord Cornbury as governor of New Jersey in November of 1702. Richard Stackton Field, *The Provincial Courts of New Jersey, With Sketches of the Bench and Bar*, Collections of the New Jersey Historical Society, Vol. 3 (New York: Bartlett & Welford, 1848), p. 239. Probably the same instructions went to all of the governors.

<sup>23</sup> 1692, c. 15, *Md. Arch.*, XIII, 451-457, esp. p. 457; 1699, c. 43, *Md. Arch.*, XXII, 546-553, esp. p. 551; 1704, c. 23, *Md. Arch.*, XXVI, 254-261, esp. p. 259.

<sup>24</sup> *Md. Arch.*, XXIX, 348-349; TNA (PRO), Colonial Office 5, Vol. 727, pp. 392-393; *ibid.*, vol. 189, pp. 160-161 (page 173 of photocopy in Library of Congress). This series of instructions might have been general instructions to all of the governors.

<sup>25</sup> *Md. Arch.*, XXIX, 348-349, 355, 393, 399. The lower house must have been referring to 1704, c. 23, *Md. Arch.*, XXVI, 259.

<sup>26</sup> 1715, c. 44, *Md. Arch.*, XXX, 288-289.

<sup>27</sup> Annapolis Records, By-Laws, 1766-1791, p. 37.

<sup>28</sup> *Maryland Gazette*, 27 May 1746.

<sup>29</sup> *Ibid.*, 17 June 1746.

<sup>30</sup> *Ibid.*, 17 May 1753.

<sup>31</sup> *Ibid.*, 9 August 1753.

<sup>32</sup> *Ibid.*, 7 September 1758.

<sup>33</sup> *Ibid.*, 6 October 1768.

<sup>34</sup> *Ibid.*, 17 March 1747.

<sup>35</sup> *Ibid.*, 27 April 1758.

<sup>36</sup> *Ibid.*, 19 November 1767.

<sup>37</sup> *Ibid.*, 17 August 1769.

<sup>38</sup> *Ibid.*, 13 December 1770.

<sup>39</sup> *Ibid.*, 4 July 1771.

<sup>40</sup> Scar on forehead:

John Fox — convict: *Maryland Gazette*, 17 June 1746;

Samuel Stead — convict: *ibid.*, 11 July 1750;

Henry Stocks — non-convict: *ibid.*, 29 August 1750;

Peter Ross — convict: *ibid.*, 20 March 1751.

When Hugh Wallace and Hugh West of Fairfax County, Virginia, advertised for their runaway convict servant William Duncanson in December of 1746 they noted that he had “a remarkable Scar in his Forehead.” *Ibid.*, 2 December 1746.

<sup>41</sup> Scar on nose: Peter Ross — convict: *ibid.*, 20 March 1751.

<sup>42</sup> Dent in forehead: Samuel Stead — convict: *ibid.*, 11 July 1750. When in September of 1754 Richard Eppes of Chesterfield County, Virginia, advertised for his runaway convict servant John Findley, he noted that Findley’s head was “broke in several Places” and that his legs were very sore. *Ibid.*, 5 September 1754.

<sup>43</sup> Had lost an eye:

Richard Lawrence — non-convict: *ibid.*, 7 September 1748;

Margaret Tasker — convict: *ibid.*, 19 January 1764.

When in September of 1764 John Taylor, the jailer of Baltimore County, ad-

vertised John Robeson, whom he had committed as a runaway but who claimed to be free, he noted that Robeson had “but one Eye.” *Ibid.*, 13 September 1764. When in July of 1767 William T. Wootten, the sheriff of Prince George’s County, advertised Mary Kelly, whom he had committed as a runaway but who claimed to be free and from Virginia, he reported that she had “but one Eye.” *Ibid.*, 2 July 1767. When in the same issue Michael Gretter of Alexandria advertised for his runaway servant Mary Dally he noted that she was “blind of [*sic*] the right Eye.” *Ibid.* And when in January of 1772 Helsop and Blair of Fredericksburg, Virginia, advertised for their runaway convict servant Thomas Henry Enman alias Eaman, who was a schoolmaster, they noted that he had only one eye. *Ibid.*, 30 January 1772.

<sup>44</sup> Had lost some teeth:

Richard Lawrence — non-convict: *ibid.*, 7 September 1748;

Joseph Neale Bacon — non-convict: *ibid.*, 13 September 1764;

Mary Owens — convict: *ibid.*, 2 July 1767.

When in the summer of 1729 John Thomas of Cecil County advertised for his runaway non-convict servant Thomas Lamb he noted that Lamb had “lost two of his upper Teeth on the left Side of his Mouth” and that he had “a great blotch or Scar a little above his right Ear.” *Ibid.*, 24 June - 1 July 1729. When George Steuart advertised for his runaway servant Thomas Wood alias John Wilson in March of 1746 he noted that one of Wood’s front teeth was broken. *Ibid.*, 18 March 1746.

<sup>45</sup> Had lost part of an ear: John Hyde — non-convict: *ibid.*, 17 March 1747. Of course John Hyde might also have lost part of his ear to the hangman or his proxy after being convicted of a minor crime. Ellefson, “Seven Hangmen of Colonial Maryland,” Chapter 6, “Character and Competence.”

<sup>46</sup> Had lost one of his toes: John Fox — convict: *ibid.*, 17 June 1746.

<sup>47</sup> Death sentences for breaking into buildings:

Elizabeth Jones — non-convict — burglary — hanged — 1721: Anne Arundel County Court Judgment Record, 1720-1721, pp. 396, 403-404; Provincial Court Judgment Record, Liber W. G., No. 1, pp. 487, 549-550;

Mary Perry — convict — burglary — reprieved — 1752: *Md. Arch.*, XXVIII, 575-576; *Maryland Gazette*, 16 April, 21, 28 September, 16 November 1752; Provincial Court Judgment Record, Liber E. I., No. 14, pp. 557, 578-580;

Thomas Robinson — convict — burglary — pardoned — 1768: *Md. Arch.*, XXXII, 249, 250-251; *Maryland Gazette*, 15 September 1768; Commission Records, 1733-1773, p. 218; Executive Papers, 1715-1783, Accession 9911; Provincial Court Judgment Record, Liber D. D., No. 15, pp. 10, 13-14; Coldham, *The Complete Book of Emigrants in Bondage, 1614-1775*, p. 683.

<sup>48</sup> *Maryland Gazette*, 17 March 1747.

<sup>49</sup> *Ibid.*, 4 July 1771.

<sup>50</sup> 1666, c. 23, *Md. Arch.*, II, 146; 1676, c. 7, *Md. Arch.*, II, 524; 1692, c. 15, *Md. Arch.*, XIII, 452; 1699, c. 43, *Md. Arch.*, XXII, 546; 1704, c. 23, *Md. Arch.*, XXVI, 254; 1715, c. 44, *Md. Arch.*, XXX, 284.

<sup>51</sup> Anne Arundel County Court Judgment Record, Liber I. B., No. 1, pp. 14, 16; Prince George's County Court Record; Liber V, p. 8; Queen Anne's County Court Judgment Record, 1733-1735, pp. 376-371.

<sup>52</sup> 1704, c. 23, *Md. Arch.*, XXVI, 254; 1715, c. 44, *Md. Arch.*, XXX, 284; Anne Arundel County Court Judgment Record, Liber I. B., No. 1, p. 16; Prince George's

County Court Record, 1761-1763, p. 135; Queen Anne's County Court Judgment Record, 1733-1735, pp. 376-377; *ibid.*, 1735-1739, p. 75.

<sup>53</sup> Prince George's County Court Record, Liber H, pp. 928, 930. Joseph Belt was one of the justices of Prince George's County. *Ibid.*, p. 928.

<sup>54</sup> *Ibid.*, p. 1013.

<sup>55</sup> Parliament approved the use of iron collars and shackles on runaway servants and vagabonds, and also provided for branding them, in 1547. In the act for punishing vagabonds that year it provided that if any person brought before two justices of the peace any "runagate" servant or any other person who "liveth idly and loiteringly" for three days the justices would have a V branded on the servant's or vagabond's breast and award him as a slave for two years to the person who brought him before them. During that two years the master was to feed the slave on bread, water, "or small drink," and "refuse meat" and through "beating, chaining or otherwise" force him to work at anything the master chose, "be it never so vile." If during that two years the slave absented himself for fourteen days two justices would order an S branded on his forehead or on "the ball of the cheek" and adjudge him to be a slave for life. If he ran away again he would be adjudged a felon. Parliament further provided that the master of such a slave could "put a ring of iron about his neck, arm or leg." 1 Edward VI, c. 3, in Pickering, *The Statutes at Large*, V, 246-247.

While this law provided for the use of iron collars on servants and vagabonds who had been made slaves, obviously by the eighteenth century they were used on other troublesome servants as well.

<sup>56</sup> Some of those identified as servants might actually have been convict servants. Sometimes there is no way to distinguish the two. As more lists of imported convicts appear, some of those people whom I have counted as servants might turn

out to be convict servants.

<sup>57</sup> *Maryland Gazette*, 5 July 1745, 20 June 1750, 30 July 1752, 7 June, 15 November 1753, 28 March, 2 May, 15 August, 5 September 1754, 11 September 1755, 6 September 1759, 21 May 1761, 1 July 1762, 16 June 1763, 19 January, 2 February, 29 March, 24 May 1764, 4 July 1765, 24 April, 25 September 1766, 30 April, 12 November 1767, 28 July, 4 August 1768, 21 December 1769, 5 July 1770, 9 May, 31 October 1771, 22 October 1772, 18 February, 27 May 1773, 28 April, 6 October 1774, 30 March, 8 June, 21 September 1775; *Dunlop's Maryland Gazette*, 16 May, 13 June 1775; *Maryland Journal and Baltimore Advertiser*, 10-31 March 1774, 2 August 1775; Baltimore County Record of Convicts, 1770-1774, 1783, pp. 63-64, 198-199.

Two of the convict servants with iron collars were women

This total does not include one runaway convict servant who was under prosecution for house-breaking. *Maryland Gazette*, 21 December 1769.

In addition, one runaway convict servant was advertised as wearing an iron collar and handcuffs in 1734. *Maryland Gazette*, 25 October - 1 November 1734; Kent County Bonds, Indentures, etc., Liber J. S., No. 17, 1731-1735, pp. 69-71. This was John Berry, who had run away and escaped again while he was being taken home from the jail in Annapolis.

And in March of 1719/20 Nicholas Fling, the servant of Thomas Hynes, had an iron collar around his neck even though he had not run away and was not a convict. Prince George's County Court Record, Liber H, p. 978. See also Text below at Notes 92-93.

A suspected sailor who was committed as a runaway had "Shackles round his Ancles." *Maryland Gazette*, 22 August 1771.

For John Benham and John Miller, two convict servants from Virginia who had “large Steel Collars about their Necks,” see *ibid.*, 8 September 1768. For the same two convict servants without collars a few months earlier, see *ibid.*, 5 May 1768.

Richard B. Morris mentions an ad for a servant who had “a string of bells around his neck, ‘which made a hideous jingling and discordant noise’,” but he does not say where the ad comes from. Morris, *Government and Labor in Early America*, p. 435.

<sup>58</sup> *Maryland Gazette*, 9 August 1770. For Margaret Young, who was taken up as a suspected runaway servant from Pennsylvania and who had “a remarkable Scar on her Throat and each Side of her Neck,” see *ibid.*, 15 May 1766.

<sup>59</sup> *Ibid.*, 28 May 1752.

<sup>60</sup> Convict servants: George Seymour and Stephen Hawks: *ibid.*, 16 September 1762; servants: William Norris and John Bessy: *Maryland Journal and Baltimore Advertiser*, 2 August 1775.

Negro Solomon, who probably was a slave, also had iron darbies and chains on his legs. *Dunlop’s Maryland Gazette*, 16 May 1775. A darby is a type of manacles.

<sup>61</sup> *Maryland Gazette*, 22 August 1771. William Philips might have been a sailor rather than a servant or a convict servant. He is not on any of our charts.

<sup>62</sup> *Ibid.*, 21 June 1745, 4 March 1746, 7 April 1747, 24 February 1748, 19, 26 April 1753, 29 September 1763, 6 September, 8 November 1764, 8 August 1765, 7, 14, 21 August 1766, 16 June 1768, 6, 20, 27 July 1769, 2 August, 18 October 1770, 20, 27 June 1771, 26 May, 15 September 1774, 16 March 1775.

For irons on the runaway servant in Virginia in the seventeenth century, see

James Curtis Ballagh, *White Servitude in the Colony of Virginia: A Study of the System of Indentured Labor in the American Colonies* (Baltimore: The Johns Hopkins Press, 1895), pp. 57, 76. In Virginia in 1751 a servant boy belonging to John Stevenson was in jail with “an iron lock in his mouth.” The county court of Augusta County ordered the sheriff to take it off. Edward Ingle, *Local Institutions of Virginia* (Baltimore: Johns Hopkins University, 1885), p. 93.

<sup>63</sup> *Maryland Gazette*, 25 October - 1 November 1734.

<sup>64</sup> *Ibid.*, 6 September 1759.

<sup>65</sup> *Ibid.*, 4 August 1768.

<sup>66</sup> *Ibid.*, 30 March 1775.

<sup>67</sup> *Maryland Journal and Baltimore Advertiser*, 2 August 1775.

<sup>68</sup> *Maryland Gazette*, 5 July 1745, 15 August, 5 September 1754, 11 September 1755, 16 September 1762, 19 January, 24 May 1764, 15 May 1766, 4 August 1768, 21 December 1769, 6 October 1774, 8 June 1775; *Dunlop's Maryland Gazette*, 13 June 1775.

<sup>69</sup> William Eddis:

. . . it was observed that it was a debt strictly due to justice to compel him [a runaway servant] to serve the residue of his time in the most laborious employment allotted to worthless servants. He was accordingly sentenced to the iron mines, there to reap the bitter effects of his conduct.

This runaway was “terrified at the prospect of the punishment that awaited him.” Eddis, *Letters from America*, p. 43.

<sup>70</sup> *Maryland Gazette*, 7 June 1753, 5 September 1754. In his second advertisement Richard Croxall did not refer to John Oulton as a convict servant, but his time could not have run out by that time if he had been in the country for only four years.

<sup>71</sup> *Ibid.*, 7 August, 25 September 1766.

<sup>72</sup> *Maryland Journal and Baltimore Advertiser*, 10-31 March 1774.

<sup>73</sup> *Maryland Gazette*, 10 August 1769.

<sup>74</sup> *Ibid.*, 15 August 1754.

<sup>75</sup> *Ibid.*, 16 September 1762.

<sup>76</sup> *Ibid.*, 19 January 1764.

<sup>77</sup> *Dunlop's Maryland Gazette*, 16 May 1775. When in August of 1773 Charles Young of Baltimore City advertised for his runaway non-convict servant Thomas Meredith he noted that Meredith was handcuffed to an unidentified sailor with whom he was caught after he had run away earlier. *Maryland Journal and Baltimore Advertiser*, 20-28 August.

<sup>78</sup> *Maryland Gazette*, 21 December 1769. I have not found the prosecution against Hooper. Hooper is not included in the totals given earlier.

<sup>79</sup> *Ibid.*, 20 June 1750.

<sup>80</sup> *Ibid.*, 30 July 1752. Servants as well as convict servants were also sometimes tattooed with their initials, but it appears that they had had it done themselves. When in the spring of 1729 Joshua Doyne of St. Mary's County advertised for his runaway non-convict servant Edward Edge he noted that Edge had "E E mark'd with blew" on one of his hands. *Ibid.*, 29 April - 6 May 1729. When in March of 1746 Barton Rodgett of Annapolis advertised for his convict servant John Bailey he noted that "below his Right Thumb joint" Bailey had the letters I. B. H. N. *Ibid.*, 4 March 1746. Later Patrick Doran of Annapolis noted the same thing when he advertised for Bailey. *Ibid.*, 30 September 1746.

John Flack alias Evans, in addition to having Adam and Eve sitting under a tree on his chest and numerous other tattoos, had his first name printed on the back of one hand and his last name on the back of the other. *Ibid.*, 18 August, 14 October

1747. A John Flack was imported into the colonies in 1733, and another in 1740. Coldham, *The Complete Book of Emigrants in Bondage, 1614-1775*, p. 281.

John Kent, a convict servant who ran away from Matthew Hopkins of Prince George's County in 1748, had I. C. with several flourishes tattooed on his arm. According to Kent the C resulted from an error of the Turk who did the tattooing. *Ibid.*, 21 September 1748; Provincial Court Land Records, Liber E. I., No. 8, pp. 406-407. The convict servant John Brookes, who ran away from Joseph Johnson of Prince George's County later in the same year, had I. B. marked on the back of one of his hands. *Maryland Gazette*, 30 November 1748. John Adams, a servant who in 1769 ran away from David Lindsey and Turbutt Betton of Queen Anne's County, had I. A. marked on one of his arms. *Ibid.*, 24 August 1769.

<sup>81</sup> *Ibid.*, 4 August 1747. Italics in original.

<sup>82</sup> *Ibid.*, 25 September 1766.

<sup>83</sup> *Ibid.*, 22 April 1773. A. Roger Ekirch mentions John Garraughty and Joseph Manyfold. Ekirch, *Bound for America*, p. 159n. For the suicide of a servant in colonial New Jersey, see William Stuart, "White Servitude in New York and New Jersey," *Americana*, XV (January 1921), p. 35.

<sup>84</sup> *Maryland Gazette*, 18-25 February 1728/9. For a convict servant who also cut off one of his hands and died as a result, see *Maryland Gazette*, 17 April, 1 May 1751; Ekirch, *Bound for America*, pp. 156-157.

<sup>85</sup> For historians' implication that servants were generally well off and that they had effective legal protections, a view that young people grew up with into and through the 1960s, see Ballagh, *White Servitude in the Colony of Virginia*, pp. 44, 47, 52, 63, 65, 67-68, 69, 71, 76n., 77-78, 79, 79n., 79-80, 81, 82, 86-87, 88, 90, 90n.; John Spencer Bassett, *Slavery and Servitude in the Colony of North Carolina*

(Baltimore: The Johns Hopkins Press, 1896), pp. 80-81; Theodore D. Jervay, "The White Indentured Servants of South Carolina," *The South Carolina Historical and Genealogical Magazine*, XII, No. 4 (October 1911), pp. 168-169; Smith, *White Servitude in Colonial South Carolina*, pp. 74-87; Louis B. Wright, introduction to Byrd, *Secret Diary*, p. xiv; Adams, *Provincial Society, 1690-1763*, p. 100; Smith, *Colonists in Bondage*, pp. 246, 251, 278; Dalzell, *Benefit of Clergy in America & Related Matters*, p. 68; Thomas Jefferson Wertenbaker, *The First Americans, 1607-1690* (New York: The Macmillan Company, 1927), pp. 227, 230-231; Chitwood, *A History of Colonial America*, p. 342; Max Savelle and Robert Middlekauff, *A History of Colonial America* (New York: Holt, Rinehart and Winston, 1964), p. 447.

<sup>86</sup> Anne Arundel County Court Judgment Record, Liber I. B., No. 1, p. 239.

<sup>87</sup> *Ibid.*, 1740-1742, pp. 247-248.

<sup>88</sup> Queen Anne's County Court Judgment Record, 1735-1739, p. 55.

<sup>89</sup> Charles County Court Record, Liber F, No. 3, p. 14.

<sup>90</sup> Prince George's County Court Record, Liber H, p. 801.

<sup>91</sup> *Ibid.*, p. 930.

<sup>92</sup> *Ibid.*, p. 978.

<sup>93</sup> *Ibid.*, p. 1013.

<sup>94</sup> In New York in 1695 a servant was discharged from service because her mistress kept her "in Chains and Irons for several Weeks upon bread and water only" and also "Cruelly" beat her. McKee, *Labor in Colonial New York*, pp. 99-100.

<sup>95</sup> 1692, c. 15, *Md. Arch.*, XIII, 457.

<sup>96</sup> Queen Anne's County Court Judgment Record, 1747-1748, pp. 91-92.

<sup>97</sup> Baltimore County Court Minutes, Liber B. B., 1755-1762, August Court 1756; Baltimore County Court Proceedings, Liber B. B., No. C, pp. 223-224.

<sup>98</sup> Anne Arundel County Court Judgment Record, 1740-1742, p. 222. The freedom dues for man at this time was one new hat, a good suit, which included a coat and britches of either kersey or broadcloth, one new shift of white linen, one new pair of french fall shoes and stockings, two hoes, one axe, and one gun valued at twenty shillings and not more than “four foot by the barrel” or less than three-and-a-half feet. 1715, c. 44, *Md. Arch.*, XXX, 286. Kersey is “a course ribbed woolen cloth” or “a heavy wool or wool and cotton fabric made in plain or twill weave with a smooth surface.” *Webster’s Third New International Dictionary of the English Language Unabridged* (1981)

<sup>99</sup> Richard B. Morris notes cases in Maryland in which the servants were discharged and in which masters were fined for mistreating them. He agrees however that more often the court merely admonished the master. Morris, *Government and Labor in Early America*, pp. 490, 490n.

<sup>100</sup> Charles County Court Record, Liber B, No. 2, p. 302. Alan F. Day of the University of Edinburgh pointed this case out to me.

<sup>101</sup> Baltimore County Court Proceedings, Liber I. S., No. C, p. 208.

<sup>102</sup> Anne Arundel County Court Judgment Record, Liber R. C., No. 1, p. 462.

<sup>103</sup> *Ibid.*, 1720-1721, pp. 246-247. I have not found that earlier complaint.

<sup>104</sup> Prince George’s County Court Record, Liber Z, p. 88; Kent County Bonds, Indentures, etc., Liber J. S., No. 18, 1735-1740, pp. 115-117.

<sup>105</sup> Provincial Court Judgment Record, Liber W. G., No. 1, p. 500. The freedom dues for a woman was one “wastcoat and pettycoat of New halfe thick or penistone,” a new shift of white linen, shoes and stockings, a blue apron, two caps of white linen, and three barrels of Indian corn. 1715, c. 44, *Md. Arch.*, XXX, 286. Penistone is a course woolen cloth. *Webster’s Third New International Dictionary of the English*

*Language Unabridged* (1981).

<sup>106</sup> Provincial Court Judgment Record, Liber E. I., No. 7, p. 4.

<sup>107</sup> Anne Arundel County Court Judgment Record, Liber I. B., No. 2, p. 76; Liber I. B., No. 6, p. 551; Charles County Court Record, Liber Y, No. 2, pp. 94-95; Prince George's County Court Record, Liber M. M., pp. 66, 107; Queen Anne's County Court Judgment Record, 1744-1746, p. 3.

<sup>108</sup> Donnell M. Owings, *His Lordship's Patronage: Offices of Profit in Colonial Maryland* (Baltimore: Maryland Historical Society, 1953), p. 136.

<sup>109</sup> *Md. Arch.*, XXV, 176.

<sup>110</sup> For cases in which servants had to petition for their freedom at the end of their servitude, see Queen Anne's County Court Judgment Record, 1747-1748, p. 91; Anne Arundel County Court Judgment Record, 1740-1742, pp. 6, 224; Prince George's County Court Record, Liber L. L., p. 3; Baltimore County Court Proceedings, Liber H. W. S., No. 7, pp. 56-57; Talbot County Court Judgment Record, Liber R. F., No. 11, p. 559; Provincial Court Judgment Record, Liber E. I., No. 15, pp. 225-226, 266-267, 268-269, 471-472, 472-474, 474-475.

See Somerset County Judicial Record, 1749-1751, pp. 41-41a, for the court's releasing William Addams because his purported master, Thomas Addams, could not prove his right to hold him as a servant.

<sup>111</sup> For cases in which servants had to petition for their freedom dues, see Anne Arundel County Court Judgment Record, 1740-1742, p. 1; *ibid.*, 1744-1746, p. 9; Prince George's County Court Record, Liber L, p. 563; Liber S, p. 17; Liber X, p. 659; Liber M. M., p. 72; Charles County Court Record, Liber F, No. 3, p. 13; Liber Y, No. 2, p. 180; Liber F, No. 3, pp. 13, 298; Queen Anne's County Court Judgment Record, 1744-1746, p. 9; *ibid.*, 1747-1748, pp. 91, 189-190.

<sup>112</sup> Anne Arundel County Court Judgment Record, 1740-1742, pp. 688-689; Prince George's County Court Record, Liber H, p. 1035.

<sup>113</sup> 1715, c. 44, *Md. Arch.*, XXX, 288-289.

<sup>114</sup> William Byrd sometimes felt sorry for slaves who had been beaten (Byrd, *Secret Diary*, 11 January 1711, p. 285; 2 March 1712, p. 494; 22 May 1712, p. 533), and therefore he might sometimes have had sympathy for servants who had been beaten also.

<sup>115</sup> According to the Duke's Laws of 1665-1675 the servant who unjustly complained against his master in New York in the seventeenth century had to serve three months of extra time. McKee, *Labor in Colonial New York*, p. 99.

<sup>116</sup> Frederick County Court Minutes, 1750-1757, November Court 1754; Frederick County Court Judgment Record, 1753-1759, p. 646.

<sup>117</sup> Smith, *Colonists in Bondage*, pp. 245-246.

<sup>118</sup> See Text above at Notes 99-105. Whether the servant had to serve additional time to reimburse his master for the costs in the complaint is not clear.

<sup>119</sup> For the myth that masters treated their servants well because it was in their economic interest to do so, see Savelle and Middlekauff, *A History of Colonial America*, p. 447; Chitwood, *A History of Colonial America*, p. 342; Wertenbaker, *The First Americans, 1607-1690*, p. 230.

<sup>120</sup> Anne Arundel County Court Judgment Record, Liber I. B., No. 2, p. 4.

<sup>121</sup> Morris, *Government and Labor in Early America*, p. 487; *Maryland Gazette*, 4 August 1747, 25 September 1766, 22 April 1773. See also Text above at Notes 81-83.

<sup>122</sup> *Maryland Gazette*, 18-25 February 1728/9. See also Note 84 above.

<sup>123</sup> Anne Arundel County Court Judgment Record, 1720-1721, pp. 261-262.

<sup>124</sup> Apparently the masters often did work their servants as long as they could without rest. The assembly put excessive work along side inadequate food, clothing, and lodging and excessive punishment as a form of mistreatment of servants. See Note 17 above.

<sup>125</sup> Prince George's County Court Record, Liber Z, pp. 88, 375.

<sup>126</sup> Kent County Bonds, Indentures, etc., Liber J. S., No. 18, 1735-1740, pp. 115-117.

<sup>127</sup> Prince George's County Court Record, Liber H, p. 1036. Who sold John Williams to Robert Saunders does not appear.

<sup>128</sup> *Maryland Gazette*, 18 September 1755.

<sup>129</sup> *Ibid.*, 30 October 1766. The planter's giving someone else's servant a box on the ear is a survival of the middle ages, when aristocrats had the right to punish peasants. G. G. Coulton says that "Many German customals expressly granted the lord a right of 'moderate chastisement' over the peasant; in the eighteenth century this was interpreted as 'a few boxes on the ear, or a tolerable whipping'." G. G. Coulton, *Medieval Village, Manor, and Monastery* (Torchbook edition; New York: Harper and Brothers, 1960), p. 52.

<sup>130</sup> Or Bracher, Pradcher, or Pracher.

<sup>131</sup> Provincial Court Judgment Record, Liber W. T., No. 3, pp. 620-623.

<sup>132</sup> *Md. Arch.*, XXIV, 148-149. In an affidavit of Richard Sampson, from Newfoundland, in 1705:

In December one Christian, a maid to Mr. Jackson, the Minister, falling out with his daughter, who calling the maid whore, was answered with the same language, and being asked whose, the maid replied Capt. Moody's, for which a short time after she was fastened to a gun and whip'd, and afterwards cold water flung on her, and died in a few days after.

TNA (PRO), *Calendar of State Papers: Colonial Series*, XXII, 1242.

<sup>133</sup> Provincial Court Judgment Record, Liber P. L., No. 3, pp. 384-386; Liber I. O., No. 1, pp. 121-124; Liber W. G., No. 3, pp. 82-86; Liber B. T., No. 1, pp. 11-14; Liber D. D., No. 9, pp. 36-37; Liber D. D., No. 17, p. 259.

<sup>134</sup> *Ibid.*, Liber T. G., pp. 92-94. “. . . it was no easy task to secure the conviction of a master in the tobacco colonies for the murder of his servant, although Maryland’s record on this score is far brighter than that of Virginia.” Morris, *Government and Labor in Early America*, p. 485.

Morris records two cases in which masters were condemned in Maryland in the seventeenth century for murdering their servants. One was John Dandy, who was hanged in 1657, and the other was Joseph Fincher, who was condemned in 1664. *Ibid.*, pp. 485-486.

For John Dandy, see Ellefson, “Seven Hangmen of Colonial Maryland,” Chapter 2, “John Dandy,” and for Joseph Fincher see Aubrey C. Land, ed., *Bases of the Plantation Society* (New York: Harper & Row, Publishers, 1969), pp. 213-220, and *Md. Arch.*, XLIX, 304-307, 311-312, 312-314.

<sup>135</sup> Provincial Court Judgment Record, Liber D. S., No. C, pp. 340-341.

<sup>136</sup> *Maryland Gazette*, 28 February 1754. I have found no prosecution against Thomas Cartwright.

<sup>137</sup> Provincial Court Judgment Record, Liber W. T., No. 3, pp. 625-626. William Martin’s assault on the two servants might or might not have been as serious as it sounds. The conventional wording in the indictment for assault was that the defendant had used swords, staves, and knives to beat his victim until “of his life he did despair” or similar wording. Anne Arundel County Court Judgment Record, Liber T. B., No. 3, pp. 437-439; *ibid.*, 1720-1721, pp. 194-196, 201-203; *ibid.*, 1723,

p. 115; *ibid.*, 1740-1742, pp. 21-22, 414, 482-483, 483-484; Liber I. B., No. 1, p. 288; Liber I. B., No. 6, p. 593; Liber I. S. B., No. 2, p. 726; Liber I. S. B., No. 4, pp. 101, 161; Baltimore County Court Proceedings, Liber I. S., No. C, p. 283; Liber T. B., No. T. R., pp. 2, 56, 78, 81-82, 91-92, 92-93, 93-94; *ibid.*, 1743, pp. 631, 632; Liber T. B. & T. R., No. 1, pp. 4, 412-413; Frederick County Court Judgment Record, 1761-1762, pp. 452, 453; Kent County Criminal Record, Liber J. S., No. 23, pp. 33-35; Prince George's County Court Record, Liber S. S., pp. 491-492; *ibid.*, 1766-1768, p. 167; Queen Anne's County Court Judgment Record, 1732-1735, pp. 97-98, 420; *ibid.*, 1740-1742, p. 21; *ibid.*, 1744-1746, p. 481; *ibid.*, 1746-1747, pp. 59, 274; *ibid.*, 1747-1748, pp. 193-194; Somerset County Judicial Record, 1754-1757, p. 236a; Talbot County Criminal Record, 1761-1767, p. 237; Provincial Court Judgment Record, Liber W. G., No. 1, pp. 136-137, 141-142, 531, 542-543, 543; Liber E. I., No. 7, pp. 314-315, 662, 663; Liber E. I., No. 9, p. 460; Liber E. I., No. 15, p. 336; Liber D. D., No. 1, pp. 505, 522-523, 523.

When an Indian broke into a house in Rhode Island in the seventeenth century and beat a servant he had to pay damages to the master. Thomas Durfee, *Gleanings from the Judicial History of Rhode Island*, Rhode Island Historical Tracts, No. 18 (Providence: S. S. Rider, 1883), pp. 131-132.

<sup>138</sup> For the fear of insurrections of servants, see Smith, *White Servitude in Colonial South Carolina*, pp. 30-35; Ballagh, *White Servitude in the Colony of Virginia*, p. 60.

<sup>139</sup> Smith, *White Servitude in Colonial South Carolina*, pp. 39-40.

<sup>140</sup> 1676, c. 16, *Md. Arch.*, II, 540-541. For a proclamation of Deputy Governor Thomas Notley on imported convicts in December(?) of 1676, see *Md. Arch.*, XV, 136-137. For Thomas Notley, see Owings, *His Lordship's Patronage*, pp. 137-138.

<sup>141</sup> Thomas Bacon, *Laws of Maryland at Large* (Annapolis: Jonas Green, 1765), under 1676, c. 16.

<sup>142</sup> 1692, c. 74, *Md. Arch.*, XIII, 539-540.

<sup>143</sup> Bacon, *Laws of Maryland at Large*, under 1692, c. 74. I do not have the date of that repeal.

<sup>144</sup> 1723, c. 6, *Md. Arch.*, XXXVIII, 320-322.

<sup>145</sup> *Md. Arch.*, XXXV, 212, 325; Bacon, *Laws of Maryland at Large*, under 1723, c. 6.

<sup>146</sup> Bacon, *Laws of Maryland at Large*, under 1728, c. 23.

<sup>147</sup> 1728, c. 23, *Md. Arch.*, XXXVI, 300-302.

<sup>148</sup> *Md. Arch.*, XXVI, 373, 390-391.

<sup>149</sup> *Ibid.*, pp. 522, 562.

<sup>150</sup> Eddis, *Letters from America*, pp. 37-38.

## Part II. Slaves

In spite of the efforts of early historians to make it appear that American slavery was a benevolent institution or at least nothing very bad,<sup>1</sup> the treatment of slaves was probably even worse than the treatment of servants.<sup>2</sup> The planter could whip his own slaves without answering to anyone<sup>3</sup> and therefore could provide a fashionable entertainment for himself, his family, his servants, and his other slaves on particularly dull days or on days when he was feeling out of sorts.<sup>4</sup> No one will ever know how many slaves were victims of their masters' constipation.<sup>5</sup>

Not only could a white man whip his own slaves: he could also whip those of others. In 1695 the assembly provided that anyone who discovered a Negro wandering away from the plantation to which he belonged could impose on him whatever corporal punishment he thought suitable as long as that punishment did not extend to life or member or in any way disable the Negro. The object of the assembly in passing this law was to prevent the "evil consequences attending the continual concourse" of Negroes on Sundays and holidays. Those evil consequences included the Negroes' carrying their masters' property off and exchanging it with each other so that it was hard to trace, and their being encouraged by their own mutual support to attempt to escape.<sup>6</sup> This act did not last long,<sup>7</sup> but in 1723 the assembly provided that if a planter discovered a strange slave on his plantation and if the slave refused to leave the planter could whip him with not more than thirty-nine stripes. The same

law required that once a month each constable visit any place in his hundred where Negroes were suspected of meeting. Every Negro he found who did not belong to the plantation and who did not have a license from his master or his overseer the constable had to whip at his discretion so long as he did not apply more than thirty-nine stripes. He could require other white men to assist him.<sup>8</sup> Later the fire director of Annapolis could order any slave who refused to obey orders in fighting a fire whipped with not more than thirty-nine lashes.<sup>9</sup>

Thus either a planter, a constable, or the fire director of Annapolis could whip Negroes at his discretion and no record of the whipping would appear in any official or public record. Similarly, a magistrate could order a slave whipped and enter no record of the whipping. In 1704 the assembly provided that anyone who discovered a Negro carrying a gun without his master's permission could take him before a magistrate, who could order him whipped with an unspecified number of stripes.<sup>10</sup> And in 1717 the assembly provided that a single justice could impose as many as forty stripes on a slave for any offense over which the county court had previously had jurisdiction.<sup>11</sup>

Obviously slaves were often whipped, and the marks that remained were identifying features. When in September of 1745 Anne Greenfield of St. Mary's County advertised for Negro Caesar, who had been gone since the previous April, she noted that he was "mark'd on his Breast and other Parts of his Body with the Lashes of a Cowskin."<sup>12</sup> When in October of 1766 William Payne of Baltimore Town advertised for his fourteen-year-old runaway Negro Hagar he noted that she had "a Scar under one of her Breasts, supposed to be got by a Whipping."<sup>13</sup> When in January of 1767 Joseph Ward of Anne Arundel County advertised for his Negro Nan, who was only eighteen years old and who had run off with her year-old child, he warned that

the “Wench, with her deceitful Ways, and lying Tongue, passes with some Sort of People, by shewing her Marks, and pretending to be used with a great Deal of Barbarity.” Ward added that Negro Nan was in fact “pretty well marked, which she never got for her good Behaviour.”<sup>14</sup> When in July of 1773 Benjamin Lane of Anne Arundel County advertised for his runaway Negro Till he noted that he had been “sorely whipped.”<sup>15</sup>

Like the servant, the slave sometimes carried marks that could have resulted from either mistreatment or the normal accidents of the age. When in March of 1732 Elizabeth Carbery of St. Mary’s County advertised for her Mulatto Matthew she noted that Matthew had a scar across his nose.<sup>16</sup> When in June of 1747 Adam Muir of Worcester County advertised for his runaway Negro Cuffy he noted that Cuffy was “much scarified on his Forehead, and . . . [had] Holes in all his Teeth.” He also pointed out that Cuffy had “a very odd Look,” even though he was “a pretty tall, well-made, supple Negro.”<sup>17</sup> When in July of 1750 John Hammond of Anne Arundel County advertised for his runaway Negro Sam he noted that Sam had “a large Scar on his Breast and Back.”<sup>18</sup> When in July of 1763 George Scott, the sheriff of Prince George’s County, advertised for Negro Wapping, who had broken out of prison while waiting to be hanged, he noted that Wapping had “one of his fore Teeth out.”<sup>19</sup>

While it is impossible to know how these Negroes acquired their identifying disfigurements,<sup>20</sup> other cases make it seem likely that they resulted not from the ordinary accidents of living in a violent age but rather from mistreatment by their masters. When in July of 1772 Samuel Owings Jr. and Alexander Wells of Baltimore County advertised for their runaway mulatto slave Charles Harding, who called himself Dick, they noted that he had “upwards of Forty Scars on his Head of different Sizes” and that he also had “a small Scar on the upper Part of his Nose on the left

Side, a small Scar on the right Side of his under Lip,” and a scar on one of his thumbs. On his legs he had scars “occasioned by wearing of irons,” and on the outside of his left leg he had a large scar from a burn. According to Owings and Wells he had been “unmercifully whipped from his Neck to his Knees,” but, they were careful to point out, Harding said that the whippings had been inflicted by a former master.<sup>21</sup> When in October of 1773 James Truman of Prince George’s County advertised for his runaway Mulatto Lin he noted that Mulatto Lin had “a scar or depression on his forehead, occasioned by a blow,” and that a horse had bitten off a part of one of his ears.<sup>22</sup>

Negro Ireland had been similarly mistreated. When in July of 1775 John Baptist Boswell of Prince George’s County advertised for his Negro Ireland he noted that “one of his fore teeth in his upper jaw [had been] beat out some time ago” and that another tooth appeared “just out of the gum.”<sup>23</sup>

Not only was the Negro slave whipped, but he might also be branded.<sup>24</sup> In September of 1766 Joseph Vanswaringen, the jailer of Calvert County, advertised that he had committed as a runaway a Negro who called himself Esquire Benjamin and who claimed that he had been a slave of John Haile but that Haile had moved to Carolina “and there set him free.” Negro Benjamin had a P branded on his right cheek and an S on his left.<sup>25</sup> Eleven months later Edward Dyer of Prince George’s County advertised that his runaway slave Negro Dick had been whipped and had “the Letter D branded on his A-se, which, however, may be now wore out, as he only received a slight Impression.” Negro Dick had been running away ever since he was six years old.<sup>26</sup>

Just as the planter might put an iron collar or shackles on his servants, so also he might use those devices on slaves.<sup>27</sup> From 1758 through 1775 at least nine slaves

who ran away were advertised as wearing iron collars.<sup>28</sup> Three other Negro slaves had scars on their throats as though they had worn iron collars earlier.<sup>29</sup> John Gassaway's Mulatto Guy "had Irons on him when he want away,"<sup>30</sup> and Mulatto Charles Harding, the slave of Samuel Owings Jr. and Alexander Wells of Baltimore County, had "some Scars on the small of his legs occasioned by wearing of Irons."<sup>31</sup> Mulatto Charles, whom Richard Thomas as sheriff of Cecil County jailed as a runaway in the summer of 1771 and who said he belonged to "one Grimes," had a lame right ankle,<sup>32</sup> possibly from the same thing.

A bit more imaginative than the planter who put only an iron collar or shackles on his slave was Ebenezer Orme of Prince George's County. When his Negro slave Steven ran away in the summer of 1771 Orme advertised that he was wearing "an Iron Collar with a Bell fixed to it."<sup>33</sup>

Like the servant, the slave who was wearing an iron collar when he ran away might have run away before.<sup>34</sup> When in August of 1761 Thomas Gantt Jr. of Prince George's County advertised for his runaway mulatto slave Syrus, who was born in the Jerseys and who went by the name of James Woodward, he noted that Mulatto Syrus had run away before and that he was wearing an iron collar that he might be able to conceal.<sup>35</sup> Negro Solomon, who belonged to the two Thomas Cockeys and who ran away with their convict servant Richard Dawson in May of 1775, was wearing "an iron collar, a darby on each leg with a chain to one of them, all double rivitted." Negro Solomon had been in the country for about four years and had run away before.<sup>36</sup>

Finally, the slave who had marks on his neck and who therefore might have worn an iron collar earlier might have been a recent arrival in the province. In June of 1764 John Taylor, the jailer of Baltimore County, advertised that he had commit-

ted to jail as runaways “Three New Negroes,” one of whom was “much mark’d about his Neck.”<sup>37</sup>

Recognizing that the institution of slavery invited the mistreatment of slaves, while the colony was under the control of the Crown the authorities in England expressed a continual but conventional and apparently none-too-serious concern for their welfare. In August of 1691 the Council of Trade and Plantations ordered Governor Lionel Copley to try to get the assembly to establish the death penalty for the wilful killing of an Indian or a Negro and to provide an appropriate punishment also for maiming them.<sup>38</sup> When the assembly refused to do anything the Council of Trade and Plantations issued exactly the same instructions to Governor Francis Nicholson in March of 1693/4,<sup>39</sup> and the Board of Trade issued the identical instruction to Governor Nathaniel Blakiston in October of 1698,<sup>40</sup> to Governor John Seymour in May of 1703,<sup>41</sup> and to Governor John Hart in February of 1713/14.<sup>42</sup>

The assembly never passed such a law, and after the Crown returned the province to the proprietor in 1715<sup>43</sup> no one showed any further interest in it even though the cruelty with which masters and overseers treated their slaves must have been well known to almost everyone in the province. In 1692 the assembly, recognizing that some masters, mistresses, and overseers were so “void of human pitty & Christian Comisseration” that they “barbarously dismembred and Cauterized their Slaves . . . to the Scandall of Christianity,” provided that the county justices could free any slave whose master dismembered or cauterized him or permitted anyone else to do it.<sup>44</sup>

Sometimes the slave did not live long enough to get any help from the county justices: the killing of slaves was not uncommon. In October of 1688 Richard Harris and his wife Susanna of Somerset County punished Negro Anne, a thirteen-year-old slave, so severely that the girl died. First they stripped her naked and then

She was tied her to the well post with fishing line and beat her with switches. Still not satisfied, they piled straw under her and set it afire. When Thomas Bradshaw, who was picking beans in a field a short distance away, heard “a sad cry & saw smoak” he ran to the house, and when he appeared Harris cut the girl free. Bradshaw, however, was too late to save Negro Anne from her suffering, since the Harrises had already managed to “Rost her with Straw till she was as Crispey as a roasted pigg.” Yet somehow Negro Anne managed to be still alive. While she was putting mud on her legs in an effort to sooth her pain, Susanna Harris told her to go into the house. Negro Anne replied that she was “So hott & Sore that She Could not Endure to be in the house but would rather Chuse to Ley [*sic*] in the water or Mud.” Harris told her to empty a kettle, but Negro Anne said that she could not do it. Harris let her sit down, and two hours later, when she was unable to move at all, the Harrises took her to the milk house. Later she died.

The Harrises showed no regret for what they had done. Harris asked Bradshaw not to say anything about what he had seen: he asked Bradshaw “to make noe words of it as he expected to keepe a good Conscience.” Whenever anyone asked the Harrises about the girl they replied that she “was in being” or that she “was gon[e] Abroad,” but actually she was already dead and the Harrises had buried her “Very Shallow in the Earth in an Obscure Place by the Side of a grate Poplar in the Corne field [with] three Chunks of wood laid lengthwaies over the grave.” On 28 October a coroner’s jury opened the grave and on viewing Negro Anne’s body found that she had been “extreamly burnt” all the way around her body from her waist to her feet. Her left arm was also badly burned. Most of the skin had peeled off those parts of her body, and in some places her flesh appeared “blackish & Crispey as it is usuall for flesh to look when Scoarchd with fire.” In many other places the skin was lying

“loose in flacks” or was burned, and in some of those places the flesh “appeared as red as fire.” The coroner’s jury concluded that Negro Anne had died as a result of her being burned by the Harrises. The charge against the Harrises however was not murder but rather was “Shortening the daies of a Negro Girle Called Nan . . . by Violent ill & barbarous usage.”

At the Somerset County court for November of 1688 the justices sent the coroner’s report before the grand jury. After examining the report and three witnesses, all of whom had testified before the coroner’s jury, the grand jurors refused to charge the Harrises with any crime. The words in the record state that the grand jury found the Harrises not guilty of the presentment.<sup>45</sup>

The Harrises did have to give security to pay for the Negro, for Negro Anne did not belong to them. She belonged to Elizabeth Richardson, Susanna Harris’s daughter by a previous marriage. She had belonged to Robert Richardson, and by his will he provided that Negro Anne should serve Susanna Harris during the remainder of Susanna’s life and then should become the slave of Elizabeth Richardson.<sup>46</sup> Susanna married Richard Harris,<sup>47</sup> and after the two of them killed Negro Anne they had to give security to guarantee that they would turn over to Richardson’s heirs all of their inheritance whenever it was demanded of them. Since they would be unable to turn Negro Anne over to Elizabeth Richardson, they or their sureties would have to reimburse her for her loss. The Harrises also had to give security to guarantee their good behavior for an unspecified period.<sup>48</sup>

Thus the killing of a slave was no violation of the slave’s right to live but rather was a violation of the property rights of the owner of the slave.

If a white man assaulted a slave not his own, the owner could bring suit against him, though he might not succeed. At the provincial court for May of 1728 Nicholas

Fitzsimons of Baltimore County brought an action of assault with force and arms against Mark Whitacre for assaulting his Negro slave Tom alias Cobny. Fitzsimons charged that on an unspecified day Whitacre beat Negro Tom and wounded him so badly that Fitzsimons “wholly lost” Negro Tom’s service.

Through his attorney, Edmund Jenings, Whitacre asked for a continuance, which the justices granted. Twice more Whitacre received continuances, and at the provincial court for October of 1729 Fitzsimons defaulted. With that the justices discharged Whitacre and granted him an unspecified amount of tobacco for his costs. They also ruled that Fitzsimons and his “Pledges of Prosecuting be in Mercy,”<sup>49</sup> which means that they had to pay the amercement.<sup>50</sup>

As in the case of the person who was suspected of killing his servant, when a grand jury refused to indict or when a petit jury acquitted the person who was charged with the murder of his own or his father’s slave there is no way to know whether the jurors acted as they did because they believed that the suspect had not harmed the slave at all, because they believed that the slave died as the result of a legitimate correction, or because they did not care.<sup>51</sup> At the provincial court for September of 1744 Henry Darnall sent before the grand jury an indictment in which he charged that on 25 June 1744 Parker Selby of Worcester County clubbed his father’s Negro Tom on the right side of the head with an oaken staff worth one farthing and inflicted a wound two inches long and two inches deep. Negro Tom immediately died, and Darnall asked the grand jury to charge Selby with murder. In the same indictment Darnall asked the grand jury to hold Matthew Selby on the charge that “he did feloniously Procure incite, abet and Stir up” Parker Selby “to do and Perpetrate” the murder. The grand jury, however, returned the indictment endorsed *ignoramus*.<sup>52</sup>

While the grand jury refused to hold the two Selbys for trial, an earlier grand

jury did charge Richard Sweatnam of Talbot County with murdering his own slave. At the provincial court for October of 1693 a petit jury found Sweatnam not guilty of murdering his Negro Sambo after the grand jury charged that on 29 January 1692/3 he knocked out Negro Sambo's right eye with a cudgel and that Negro Sambo instantly died of the wound. After Sweatnam paid his fees the justices discharged him by proclamation.<sup>53</sup> This must be the same Richard Sweatnam whom a petit jury at the provincial court for September of 1687 acquitted of murdering his servant Issabell Jacob by turning her out of his house on 2 January 1686/7 without food, shoes, stockings, or other adequate clothing.<sup>54</sup>

In 1751 the assembly passed a law by which it all but invited Marylanders to kill runaway slaves. It provided that any officer or other person who killed a slave who refused to surrender when the officer or other person was trying to apprehend him would be "indemnified from any Prosecution" for the killing and that when any such event occurred two reputable people who were not related to the owner of the slave would evaluate him, and the province would reimburse the owner.<sup>55</sup>

Principal secretary Cecilius Calvert<sup>56</sup> did not like the law, and in the middle of 1752 he protested against it three separate times. The wording of the act made it appear that the person who killed a slave need only state that he had been trying to apprehend him in order to be free from any prosecution for his death. On 15 May 1752, writing to Governor Samuel Ogle, who had died twelve days earlier,<sup>57</sup> Calvert pointed out that he thought that any person who killed a slave while trying to apprehend him "should be accountable by Law in some manner for such action, to prove the occasion thereof."<sup>58</sup> What Calvert meant, as he made clear in July, is that the killer should have to stand trial in order to prove that he actually was trying to apprehend the slave when he killed him. On 9 July Calvert wrote two more letters,

one to Edmund Jennings, the deputy secretary of the province,<sup>59</sup> and the other to Benjamin Tasker, the president of the council and therefore acting governor after Ogle's death.<sup>60</sup> To Jennings he said that "Every innocent man is truly indemnify'd from all prosecutions, and yet if he is charged with a crime, he ought to prove his Innocence."<sup>61</sup> He complained that the careless wording of the law might be construed to mean that the killer who claimed to have killed a slave while trying to apprehend him was "priviledged [*sic*] even from Indictment and Tryal." But it was only through a trial, Calvert continued, that the killer could prove that he "was Lawfully authorized to apprehend" the slave "or that the slave had offended, or had resisted." Calvert wished that the wording of the law was more explicit so that the officials of the province could avoid the doubt about its meaning and the inconvenience that might result from that doubt.<sup>62</sup> To Tasker Calvert said exactly the same thing.<sup>63</sup>

Calvert's protests did no good, however, and the law remained in force. How the courts interpreted it when a white man was accused of killing a slave he was trying to apprehend, if such a case ever arose, has not appeared, but the law did not apply to the white man who was accused of killing a slave under other circumstances. As Samuel Pottenger discovered at the provincial court for September of 1763, the Marylander who killed his own slave did still have to face the possibility of being indicted and tried for murder.

The grand jury that returned the indictment against Pottenger charged that on 1 August 1761 he hit his Negro boy Natt in the left eye with a club worth six pence sterling and inflicted a wound two inches long and one inch deep. Negro Natt immediately died, and since in the view of the grand jurors Pottenger had hit him "feloniously, wilfully and of his Malice aforethought" they charged him with murder. But Pottenger pleaded not guilty, the petit jury acquitted him, and the justices

discharged him after he gave security to guarantee the payment of his fees.<sup>64</sup>

In 1768 Andrew Windfield, a laborer from Baltimore County, also had to stand trial for murder for the death of a slave, and although the petit jury found him guilty of manslaughter he did not suffer for his crime.<sup>65</sup> At the assizes for Baltimore County for September of 1768 the grand jury charged that on 23 June 1768 Windfield tied two iron weights to the feet of Negro Davey and then with a club worth one penny current money and with a whip worth the same amount beat Negro Davey on the head, stomach, back, and sides. Negro Davey died as a result, and the grand jurors charged Windfield with murder. After the petit jury found Windfield not guilty of the murder but guilty of manslaughter he asked for an arrest of judgment, and therefore the justices referred judgment to the next provincial court and required Windfield to give security of one hundred pounds current money, with one surety in the same amount, to guarantee that he would appear at the provincial court in October, “Stand to and abide by” the judgment of that court, not depart the court without its license, and keep the peace in the meantime.

Corbin Lee, Windfield’s surety, wrote to Governor Horatio Sharpe twice to try to get him a pardon. Sharpe and his council might never have seen the first letter, but on 21 October they considered the second one. Lee was sorry to be troublesome, he told Sharpe, but he was certain that Sharpe well knew “what an Ignominious Punishment” the law provided for manslaughter and that Windfield would have to suffer unless Sharpe was kind enough to interpose. He hoped that Sharpe would “relieve this afflicted Man from a Disgrace, which his Misfortune, not his Guilt, had brought upon him.” Sharpe and his council decided that Windfield should receive a pardon if the assize justices could report that any circumstances favorable to Windfield had appeared at his trial. The favorable circumstances must have appeared, since on 22

October Sharpe did issue a pardon for Windfield.<sup>66</sup>

James Lee Jr. of Baltimore County was never tried for killing one of his slaves and apparently was never tried for allegedly killing a second one. In the first case, at the provincial court for September of 1763 the grand jurors charged Lee with manslaughter in the killing of his slave Negro Nace. Lee had appeared at that court under bond, and the justices required him to enter new security of one hundred pounds sterling with two sureties of fifty pounds each to guarantee his appearance at the next court to answer to the indictment. In April of 1764 the justices ordered him to enter another new bond of the same amount, and when at the provincial court for September of 1764 Lee produced a pardon from Governor Sharpe dated 12 September 1764 the justices discharged him.<sup>67</sup>

In April of 1773 the grand jury at the provincial court returned another indictment against Lee for manslaughter, this time for killing his Negro slave Joe. Immediately Lee got his two attorneys, William Paca and Thomas Stone, to work on Governor Robert Eden to halt the proceedings against him, and in their application for the *nolle prosequi*<sup>68</sup> they reveal some of the details of Negro Joe's death. Lee *had* hit Negro Joe on the head, but according to Catharine Conway, who lived with Lee, he had had reasonable cause to correct Negro Joe. Neither Catharine Conway nor either of the other two witnesses, Dr. John Arther and Dr. Thomas Andrews, had indicated that Lee had been cruel. On the contrary, the witnesses agreed that during Negro Joe's illness Lee had treated him with tenderness and attention. It was clear from the evidence, the attorneys insisted, that even though Lee had not exercised due caution in correcting Negro Joe he did not intend to kill him, especially because such intention would have meant that he had set out to destroy his own property and because his recent treatment of his servants had been mild and merciful.

Actually, the attorneys argued, it appeared that since Negro Joe had died during his first illness he had died of pleurisy. They did not accept the doctors' "Suppositions" that the inflammation had spread from the brain to the pleura but humbly suggested instead that if Negro Joe's brain had been that badly inflamed more violent symptoms than the doctors had stated in their depositions would have appeared.

Malicious people had raised a groundless clamor against Lee, the attorneys continued, but that was not unusual in such cases. A number of respectable gentlemen from the neighborhood had proved the clamor groundless by petitioning Eden in Lee's favor. If Lee had planned to kill Negro Joe or if his general treatment of his slaves was inhuman or rigorous, the petitioners would not have been willing to go on record in his favor. Finally, Paca and Stone hoped that considering the distress of Lee's family and of his numerous connections as well as the contrition that he himself exhibited compassion would move Eden to grant a *nolle prosequi* on the indictment against him.<sup>69</sup>

No evidence that Lee was ever tried for Negro Joe's killing has appeared. The line between the death that resulted from illness and the death that resulted from brutality was sometimes hard to draw, and in Lee's case, at least, the difficulty of making that distinction appears to have worked in favor of the master.

Peter Ball did not hang for the murder of his Negro boy, but he did live under a sentence of death for several days. Sometime before 7 December 1752 the justices of a special court of oyer and terminer and jail delivery for Kent County condemned Ball after a petit jury found him guilty of murdering the Negro boy. On 19 December Benjamin Tasker issued a death warrant directing that Ball hang on 29 December, but on 28 December Jonas Green could report that as a result of a petition of many of the "principal Inhabitants" of Kent County Tasker had pardoned him.<sup>70</sup>

Thus if a free person with a good reputation did not escape the consequences of killing his own slave in one way he escaped them in another. The grand jury did not indict him, or the petit jury acquitted him, or the governor or the president of the council pardoned him.

The servant who killed a slave, however, could not expect such beneficence, as Thomas Lamb, the servant of Dr. Andrew Scott, learned in 1747. At the provincial court for April of 1747 the grand jury charged that in Prince George's County on 26 October 1746 Lamb stabbed Mulatto Nancy, the slave of an unidentified master, "upon his left Breast" with a knife worth one penny sterling and inflicted a mortal wound two inches deep and one inch broad and that James Noland "Feloniously and of his Malice forethought was then and there Present Aiding Assisting Abetting and Incouraging" Lamb to commit the murder. The grand jury charged both Lamb and Noland with murder. A petit jury found Noland not guilty, but Lamb pleaded guilty and the justices condemned him to hang. In their report to Governor Ogle the provincial justices pointed out that the murder was "of a very barbarous Nature, without any Provocation being given by the unhappy Slave who lost his Life." Such a report was not likely to create much sympathy for Lamb, and on 1 May Ogle issued a death warrant by which he ordered that Lamb hang on 13 May 1747 "on the North side of Rock Creek on the Top of a Hill near Holmeads Mill," which was near the site of his crime.<sup>71</sup>

In 1770 John Jones was condemned for murdering two Negroes, but he was hanged only for stealing them. It was more obvious that he had stolen them than that he had murdered them, and therefore Governor Eden issued the death warrant only on the basis of that one conviction.

At the provincial court for September of 1770 the grand jurors returned three

separate indictments against Jones. In the first indictment they charged that in Kent County on 21 July 1770 Jones stole Nathaniel Hynson's Negro slave Sarah, who was worth fifty pounds current money, and her six-month-old boy Jem, who was worth ten pounds current money. In the other two indictments the grand jurors charged that on the same day Jones murdered both Negro Sarah and Jem by throwing them into the Chesapeake Bay in Anne Arundel County so that they "Suffocated and Drowned." After Jones pleaded not guilty to all three charges the same petit jury found him guilty in all three cases, and in each case the justices sentenced him to hang. On 25 September Eden and his council considered the three convictions as well as the report of the justices and Jones' petition.

The justices reported that the evidence against Jones was full and sufficient. In his petition Jones did not explain how the Negroes happened to be with him, but he did try to convince Eden that they died accidentally. He explained that he had intended to return to England with his brother, who had a ship in the bay. In order to cross the Bay he got a canoe, with the two Negroes apparently already in it. At least that is the impression he tried to create. He took with him one of his former fellow servants, who later became an evidence against him. When the four got about two miles from the mouth of the Magothy River "the wind Roase and bloed Verey hard." The canoe tipped over, and though Jones tried to save the Negroes he barely managed to save himself. He lost almost fourteen pounds in cash and all of his clothes except those he was wearing. After getting to shore Jones took the servant back to his master, which, he said, he would not have done if he had killed the Negroes, but the servant in order to save himself from his master's wrath for running away falsely accused him of murdering the two Negroes. Jones hoped that Eden would grant him a part of his bountiful charity and save him from hanging, which he

considered all the more severe a punishment because it would be an ignominious death. He hoped that Eden would consider his youth, since he was less than twenty-one years old, and also his good behavior during the five years he had been in Maryland. He hoped also that Eden would consider his aged mother in England, whom he disobediently left without her knowledge, and save his life so that he could return home as the prodigal son did.

There might have been some doubt, therefore, about whether or not Jones had murdered the Negroes, but there was no doubt that they were with him in the canoe and that he was taking them across the Bay. That was enough to convict him of stealing them.<sup>72</sup> Eden and his council therefore did not worry about whether Jones had killed the slaves but decided simply that he should hang on 12 October for stealing them. The next day Eden issued the death warrant.<sup>73</sup>

As in any other prosecution for alleged murder, the petit jury could free from punishment the person who killed someone else's slave by deciding that the death was accidental. At the provincial court for May of 1685 the grand jurors charged that on 10 May 1685 Charles Watts shot Abigail Shanks' Negro Marriah under the left shoulder.<sup>74</sup> Although the grand jurors did not charge Watts with malice aforethought they did charge him with murder. After Watts pleaded not guilty a petit jury found him guilty only of chance-medley, and after he paid his fees the justices discharged him by proclamation.<sup>75</sup> For chance-medley or misadventure, which was the killing of someone by accident, the killer was supposed automatically to receive a pardon.<sup>76</sup>

The Negro slave, like the servant, could complain about his master's treatment, but he was not likely to get very far. Sometime before October of 1728 Negro Cesar, the slave of Thomas Stockett Jr., complained to a magistrate that he was

not able to live [with Stockett] by reason of the very Great hardships & Sufferings he daily . . . [underwent] as being knocked down with an Iron Barr & branded with hot Irons & Scalded with boyling fat & other Such like Sufferings without any reason.

The magistrate warned Stockett not to abuse Negro Cesar “in Such a barbarous manner,” and when Stockett did not change Negro Cesar complained to the magistrate again. This time the magistrate advised him to petition to Governor Benedict Leonard Calvert, who ordered Stockett to appear, with witnesses, to answer Negro Cesar’s complaint. At the provincial court for October of 1728 the provincial justices rejected the complaint but cautioned Stockett “not to use his Negro in the Manner he has done anymore.”<sup>77</sup> Obviously the justices believed at least a part of what Negro Cesar said, but he still ended up about where he started.<sup>78</sup>

It is impossible to know how often slaves were mistreated, since they seldom complained against their masters,<sup>79</sup> and there is no assurance that the white man was always brought into court even if he killed one. Very seldom did Jonas Green report brutality of a master or an overseer in the *Maryland Gazette*. Such reports might be scarce because there were few instances of such brutality, which seems unlikely, or because Marylanders of the eighteenth-century accepted brutality as a part of everyday life and Green commented only on extreme instances of it. And it was not in the interest of the white man to publicize the mistreatment of slaves.

In three of the six instances in which Green did report the death of a slave at the hands of a white man the culprit was an overseer rather than the master.<sup>80</sup> In March of 1761 he reported that an overseer on a plantation in Prince George’s County had beaten one of his Negroes to death. Complacently he added, “*What a pity it is, that INHUMANITY should be a necessary ingredient in the composition of a GOOD OVERSEER.*”<sup>81</sup> In October of 1766 he reported the verdict of the coroner’s jury in

the death of Negro Will, the slave of one Dr. Scott. Complacently again he reported that “his death was occasioned by some Bruises he received in a Correction from his Overseer a Day or Two before.”<sup>82</sup>

In another instance in which an overseer beat a Negro slave to death Green did at least call the overseer barbarous. Late in March of 1762, he reported on 1 April, an overseer at Nicholas Dorsey’s quarter on the Patapsco River in Anne Arundel County beat one of his Negroes with “such an unmerciful and barbarous Flagellation, that the poor Fellow died soon after.” The overseer, Green added, had made his escape.<sup>83</sup>

One of the rationalizations that historians have used in the nineteenth century to justify slavery is that although the Negroes who were brought to America lost their freedom they “came into contact with the most advanced type of experience in the history of man,”<sup>84</sup> or at least with a more mature culture than that of the society from which they came,<sup>85</sup> and benefitted spiritually<sup>86</sup> by experiencing a more orderly form of worship than what they brought with them.<sup>87</sup>

But the treatment of slaves in colonial Maryland make those rationalizations sound hollow. The early planters, in fact, did not want their slaves to become Christians. Instead, out of the mistaken notion that baptism automatically freed the slave,<sup>88</sup> as late as 1692, according to the assembly, the planters used threats to keep their slaves from being baptized<sup>89</sup> even though in 1671 the assembly had ruled explicitly that the slave who was baptized had no more title to freedom than he had before he received that sacrament. The assembly made no effort to encourage masters to baptize their slaves but rather only provided the assurance that they were not risking anything if they did want to do it.<sup>90</sup>

The members of the assembly had no confidence in the Africans’ ability to

understand the white man's religion. In the preamble of the law that the assembly passed in 1729 to provide for quartering the Negro who committed petit treason or murder or who wilfully burned a dwelling house the delegates made this clear when they asserted that the Africans had "no Sense of shame or Apprehension of future Rewards or Punishments."<sup>91</sup>

Clearly there was a great deal of violence against slaves in colonial Maryland. Apparently, however, the assembly's or the courts' disapproval of some of the instances of severe cruelty toward servants and slaves caused early historians to argue that harsh treatment was unusual and that the majority of colonial planters were gentle and even humanitarian people.<sup>92</sup> A closer search of the records, however, makes it clear that the violence of the planters and their proxies against servants and slaves was far more widespread and far more brutal than many historians have led us to believe.

## Part II. Slaves

### Notes

<sup>1</sup> Ulrich B. Phillips, *American Negro Slavery: A Survey of the Supply, Employment and Control of Negro Labor As Determined by the Plantation Regime* (New York: D. Appleton and Company, 1918; reprinted Baton Rouge: Louisiana State University Press, 1966), p. 343; James Curtis Ballagh, *A History of Slavery in Virginia*, Johns Hopkins University Studies in Historical and Political Science, Extra Volume XXIV (Baltimore: The Johns Hopkins Press, 1902), pp. 37, 77-78, 98-101, 102, 102-103, 106; J. Winston Coleman Jr., *Slavery Times in Kentucky* (Chapel Hill: University of North Carolina Press, N.C., 1940), pp. 29, 32.

<sup>2</sup> But according to William Eddis, writing in 1770, convict servants were worse off than slaves were. William Eddis, *Letters from America*, ed. Aubrey C. Land (Cambridge: Harvard University Press, 1969), pp. 37-38. And Richard B. Morris, in *Government and Labor in Early America* (Torchbook edition; New York: Harper and Row, 1965), pp. 500ff., is far too sanguine about the treatment of servants.

<sup>3</sup> In the colonies and later in the states the master could punish his own slave in any way short of death or mutilation. Edgar J. McManus, *A History of Negro Slavery in New York* (Syracuse: Syracuse University Press, 1966), p. 81; A. Judd Northrup, *Slavery in New York* (Albany: University of the State of New York, 1900), pp. 260, 269.

In Virginia, accidentally killing a slave while correcting him was not a felony, “since it cannot be presumed that prepensed malice (which alone makes murder felony) should induce any man to destroy his own estate.” Quoted in Ballagh, *A History of Slavery in Virginia* p. 78, from a law. See also *ibid.*, p. 81; Thad W. Tate, *The Negro in Eighteenth-Century Virginia* (Baltimore: Colonial Williamsburg Foundation, 1965), p. 9n.

In New York the wilful killing of a slave was murder, but according to Edgar J. McManus no white man there was ever prosecuted for killing a slave. McManus, *A History of Negro Slavery in New York*, p. 93. In North Carolina Justice Ruffin said that the vengeance of the master against his slave was “generally practiced with impunity because of its privacy.” John Spencer Bassett, *Slavery in the State of North Carolina* (Baltimore: The Johns Hopkins Press, 1899), p. 24.

For some laws against mistreating slaves, see Henry Scofield Cooley, *A Study of Slavery in New Jersey* (Baltimore: The Johns Hopkins Press, 1896), p. 50; Bassett, *Slavery in the State of North Carolina*, p. 20; John Spencer Bassett, *Slavery and Servitude in the Colony of North Carolina* (Baltimore: The Johns Hopkins Press, 1896), p. 43; Ballagh, *A History of Slavery in Virginia*, p. 82.

By an act of 1806 the master who imposed cruel punishment on his slave in Louisiana was subject to a fine of two hundred to five hundred dollars, but “flogging, or striking with a whip, leather thong, switch, or light stick” was specifically permitted. Joe Gray Taylor, *Negro Slavery in Louisiana* (Baton Rouge: Louisiana Historical Association, 1963), pp. 198, 224. In Louisiana in 1860 a master was fined two hundred dollars for cruelty to a slave, and in 1858 a man was sentenced to fifteen years in jail for beating a slave to death. *Ibid.*, p. 226.

William Byrd was constantly whipping his slaves if he was not punishing them

in more imaginative ways. “Moll was whipped for a hundred faults.” William Byrd, *The Secret Diary of William Byrd of Westover, 1709-1712*, ed. Louis B Wright and Marion Tinling (Richmond: The Dietz Press, 1941), 23 May 1709, p. 38. “Eugene was whipped for running away and had the [bit] put on him.” *Ibid.*, 10 June 1709, p. 46. Brackets in published edition. “Tom was whipped for not telling me that he was sick.” *Ibid.*, 27 June 1709, p. 53. “In the afternoon I beat Jenny for throwing water on the couch.” *Ibid.*, 3 September 1709, p. 79. “Jenny was whipped for [an] abundance of faults.” *Ibid.*, 16 September 1709, p. 84. “Eugene was whipped for pissing in bed and Jenny for concealing it.” *Ibid.*, 30 November 1709, p. 112. “Eugene pissed abed again for which I made him drink a pint of piss.” *Ibid.*, 3 December 1709, p. 113. “Eugene had pissed in bed for which I gave him a pint of piss to drink.” *Ibid.*, 10 December 1709, p. 117. “Eugene was whipped for doing nothing yesterday.” *Ibid.*, 16 December 1709, p. 119. “I had several of the negroes whipped for stealing the hogs [or hogsheds].” *Ibid.*, 3 March 1710, p. 148. Brackets in published book. “In the afternoon I caused L-s-n to be whipped for beating his wife and Jenny was whipped for being his whore.” *Ibid.*, 17 June 1710, p. 192. “Eugene was whipped for cheating in his work and so was little Jenny.” *Ibid.*, 31 August 1710, p. 224. “I whipped Sue Braynes for [sh-t] herself and Anaka for lying, and Prue for losing the [scroll].” *Ibid.*, 8 October 1710, p. 240. Both brackets in published book. “I went to my lodgings but my man was gone to bed and I was shut out. However I called him and beat him for it.” *Ibid.*, 9 October 1710, p. 241. “I made an indifferent dinner this day because Moll had not boiled the bacon half enough, for which I gave her some stripes under which she [b-s-t] herself.” *Ibid.*, 20 March 1711, p. 316. Brackets in published book. The letters probably abbreviate “beshit.” “In the afternoon I caused Jack and John to be whipped for drinking at John [Cross] all last Sun-

day.” *Ibid.*, 30 April 1711, p. 337. Brackets in published book. “I caused Prue to be whipped severely . . .” *Ibid.*, 1 May 1711, p. 338. “I found P-t-s-n smoking . . . [in the brick house] for which I drubbed him very much.” *Ibid.*, 7 May 1711, p. 341. “I beat Prue for staying with my milk at the cowpen and telling a lie about it.” *Ibid.*, 4 August 1711, p. 384. “At night I had several people whipped for being lazy in the morning.” *Ibid.*, 26 September 1711, p. 412. “Eugene was whipped for neglecting his business when the company were here yesterday.” *Ibid.*, 28 September 1711, p. 412. “In the evening I took a walk and beat Jenny for being unmannerly.” *Ibid.*, 11 October 1711, p. 419. “In the evening I took a walk about the plantation and found some of my boys going to burn some of my hogshead staves, for which I beat them.” *Ibid.*, 5 April 1712, p. 511. “Then I took a walk about the plantation and returned some time before it was dark out of pure discretion, and found Prue with a candle by daylight, for which I gave her a salute with my foot.” *Ibid.*, 6 June 1712, p. 540. “I caused Johnny to be whipped for threatening to strike Jimmy and caused Moll also to be whipped and made them renounce one the other. Prue and Jenny were also whipped.” *Ibid.*, 30 June 1712, pp. 550- 551. “Moll was strapped this morning and so was Jenny.” *Ibid.*, 30 July 1712, p. 564. “I found Eugene asleep instead of being at work, for which I beat him severely.” *Ibid.*, 18 September 1712, p. 585.

At other times Byrd apparently whipped slaves, although his wording does not make it entirely clear. “I chastised Moll and Eugene for not doing their business on pretence of sickness.” *Ibid.*, 2 February 1711, p. 295. “I corrected old Robin the doctor for threatening to poison Frank.” *Ibid.*, 21 June 1711, p. 363.

When Byrd was not whipping slaves he was threatening them. “I threatened Moll with a good whipping again tomorrow for her many faults.” *Ibid.*, 31 July 1709, p. 65. “I was displeased with John for giving away the sweetbread of the hog

he killed and threatened to whip him.” *Ibid.*, 25 September 1711, p. 411. Sweetbread is “the thymus or pancreas of a young animal (as a calf) used for food.” *Miriam-Webster’s Collegiate Dictionary* (11th edition; 2003). A thymus is “a glandular structure of largely lymphoid tissue that functions esp. in the development of the body’s immune system . . . .” *Ibid.*

If we can believe Byrd, his wife was even worse than he was. Of course we do not know what *she* would have said about *him*. “In the evening my wife and little Jenny had a great quarrel in which my wife got the worst but at last by the help of the family Jenny was overcome and soundly whipped.” Byrd, *Secret Diary*, 27 February 1711, p. 307. “My wife and I had a terrible quarrel about whipping Eugene while Mr. Mumford was there but she had a mind to show her authority before company but I would not suffer it, which she took very ill . . . .” *Ibid.*, 31 December 1711, p. 462. “My wife caused several of the people to be whipped for their laziness.” *Ibid.*, 5 February 1712, p. 481. “My wife had caused Moll to be whipped for not letting the people have what was ordered them.” *Ibid.*, 9 April 1712, p. 512. “My wife was pretty well and gave Prue a great whipping for several misdemeanors.” *Ibid.*, 3 September 1712, p. 579.

Byrd makes his wife appear to be brutal. “I quarreled with my wife for being cruel to Suky Brayne, though she deserved it.” *Ibid.*, 11 January 1711, p. 285. “I had a terrible quarrel with my wife concerning Jenny that I took away from her when she was beating her with the tongs.” *Ibid.*, 2 March 1712, p. 494.

Sometimes slaves got caught in the disagreements between the spouses: Byrd’s objection to his wife’s having a slave whipped might cause him to have one whipped himself. “My wife caused Prue to be whipped violently notwithstanding I desired [it] not, which provoked me to have Anaka whipped likewise who had

deserved it much more, on which my wife flew into such a passion that she hoped she would be revenged of me.” *Ibid.*, 22 May 1712, p. 533.

In the nineteenth century some plantations had stocks for punishing slaves. Ulrich B. Phillips, *Life and Labor in the Old South* (Boston: Little, Brown and Company, 1929), p. 260; Kenneth M. Stampp, *The Peculiar Institution: Slavery in the Ante-Bellum South* (Vintage edition; New York: Random House, Inc., 1964), p. 173; Orville Taylor, *Negro Slavery in Arkansas* (Durham, N. C.: Duke University Press, 1958), pp. 212-213.

Having stocks on a plantation was considered a good idea. Taylor, *Negro Slavery in Louisiana*, p. 200. Some plantations also had their own jails for slaves. Taylor, *Negro Slavery in Arkansas*, pp. 211-212, 215.

<sup>4</sup> “I . . . [vented] my passion against Moll for doing everything wrong.” Byrd, *Secret Diary*, 16 February 1709, p. 5. Brackets in published edition. In such a case Byrd sometimes felt sorry afterward. “In the evening I had a severe quarrel with little Jenny and beat her too much for which I was sorry.” *Ibid.*, 22 August 1710, p. 221. “I was a little out of humor this morning and beat Anaka a little unjustly for which I was sorry afterwards.” *Ibid.*, 12 April 1712, p. 514.

Byrd could also punish his wife when he was out of humor. “I was out of humor about Mrs. J-f-r-y so that I would not let my wife go abroad.” *Ibid.*, 1 June 1709, p. 42.

<sup>5</sup> In *Jonathan Corncob* a planter in Barbados whipped his slaves on the last day of the month just on general principles. Anonymous, *The Adventures of Jonathan Corncob, Loyal American Refugee. Written by Himself* (London, 1787; reprinted Boston: David R. Godine, 1976), pp. 73-75.

<sup>6</sup> 1695, c. 6, *Archives of Maryland*, hereafter *Md. Arch.* (72 vols.; Baltimore:

Maryland Historical Society, 1883-1972), XXXVIII, 48. Insurrections were also a possibility. For the fear of insurrections of slaves, see Bassett, *Slavery and Servitude in the Colony of North Carolina*, pp. 36, 50, 60-64; *Md. Arch.*, XL, 425, 428, 449, 457, 461, 466, 485, 486, 494, 509, 523; Edward Ingle, *Local Institutions of Virginia* (Baltimore: Johns Hopkins University, 1885), p. 88; Ballagh, *A History of Slavery in Virginia*, pp. 11, 74-75, 89-92; Tate, *The Negro in Eighteenth-Century Williamsburg*, pp. 70, 109-113; Warren B. Smith, *White Servitude in Colonial South Carolina* (Columbia: University of South Carolina Press, 1961), p. 30.

<sup>7</sup> 1695, c. 6, was continued by 1695, c. 26, *Md. Arch.*, XXXVIII, 69-70, and 1696, c. 14, *Md. Arch.*, pp. 84-86, and apparently expired in October of 1696, when the next session of the assembly ended. *Md. Arch.*, XIX, 433.

<sup>8</sup> 1723, c. 15, *Md. Arch.*, XXXIV, 731-732. The wording in the *Archives* differs from that in Thomas Bacon, *Laws of Maryland at Large* (Annapolis: Jonas Green, 1765), 1723, c. 15, paragraph 2; Recorded Laws, 1711-1723, p. 596.

<sup>9</sup> Annapolis Records, By-laws, 1766-1791, p. 37.

<sup>10</sup> 1704, c. 23, *Md. Arch.*, XXVI, 261. 1704, c. 23, was repealed by 1715, c. 49, *Md. Arch.*, XXX, 355. In 1715 the assembly passed a new law, 1715, c. 44, *Md. Arch.*, XXX, 291.

<sup>11</sup> 1717, c. 13, *Md. Arch.*, XXXIII, 112-113.

<sup>12</sup> *Maryland Gazette*, 13 September 1745.

<sup>13</sup> *Ibid.*, 2 October 1766.

<sup>14</sup> *Ibid.*, 29 January 1767.

<sup>15</sup> *Ibid.*, 1 July 1773. When in November of 1734 Armistead Churchill of Middlesex County, Virginia, advertised for his runaway Negro Will he pointed out that Will was “much scarified in his Body by Whipping.” *Ibid.*, 22-29 November 1734.

When in May of 1765 William Triplett of Fairfax County, Virginia, advertised for his Negro Harry he noted that Harry's back was "much furrow'd by Whipping." *Ibid.*, 30 May 1765.

<sup>16</sup> *Ibid.*, 9-16 March 1732.

<sup>17</sup> *Ibid.*, 9 June 1747.

<sup>18</sup> *Ibid.*, 11 July 1750.

<sup>19</sup> *Ibid.*, 21 July 1763. Negro Wapping, who was about thirty-six years old, was recaptured, and on 28 September 1763 he was hanged for attempting to poison his master, Benjamin Brooke, on 15 December 1758. Commission Records, 1726-1786 (orig.), p. 194; *Maryland Gazette*, 7 July 1763; Prince George's County Court Record, 1761-1763, pp. 485, 487-488.

<sup>20</sup> One slave might put out the eye of another slave. Tate, *The Negro in Eighteenth-Century Williamsburg*, p. 102.

<sup>21</sup> *Maryland Gazette*, 16 July 1772.

<sup>22</sup> *Ibid.*, 28 October 1773.

<sup>23</sup> *Ibid.*, 27 July, 24 August 1775. Two slaves who were committed as runaways in Maryland but who said they were from Virginia were blind in one eye. *Ibid.*, 20 July 1758, 4 February 1768.

<sup>24</sup> "My wife against my will caused little Jenny to be burned with a hot iron, for which I quarreled with her." Byrd, *Secret Diary*, 15 July 1710, p. 205.

In the nineteenth century slaves might be branded on the cheek, forehead, breast, or buttocks. Some slaves might have more than one brand. Coleman, *Slavery Times in Kentucky*, pp. 247, 248.

<sup>25</sup> *Maryland Gazette*, 4, 25 September 1766.

<sup>26</sup> *Ibid.*, 6 August 1767. For the branding of slaves in the nineteenth century,

see Charles Sydnor, *Slavery in Mississippi* (Baton Rouge: Louisiana State University Press, 1966; originally published 1933), p. 89.

When Thomas Johnson Jr. of Annapolis advertised for his runaway Negro Charles in May of 1765 he noted that Charles' left ear had been cropped. *Maryland Gazette*, 2 May 1765.

<sup>27</sup> For irons on slaves in the nineteenth century, see Taylor, *Negro Slavery in Louisiana*, pp. 184, 185, 226; Coleman, *Slavery Times in Kentucky*, pp. 248-249.

<sup>28</sup> *Maryland Gazette*, 9 November 1758, 13 August 1761, 15 May, 17 July, 2 October 1766, 5 May 1768, 11 July 1771, 15 June 1775; *Dunlap's Maryland Gazette or the Baltimore General Advertiser*, 16 May 1775. One of the slaves with an iron collar was a fourteen-year-old girl.

William Byrd sometimes used the "bit." "Eugene was whipped for running away and had the [bit] put on him." Byrd, *Secret Diary*, 10 June 1709, p. 46. Brackets in published book. "The negro woman ran away again with the [bit] on her mouth." *Ibid.*, 1 July 1710, p. 199. Brackets in published book. "The negro woman ran away again with the [bit] in her mouth and my people could not find her." *Ibid.*, 2 July 1710, p. 199. Brackets in published book. "The negro woman was found and tied but ran away again in the night." *Ibid.*, 8 July 1710, p. 202. "My negro boy [*or Betty*] ran away again but was soon caught. I was angry with John G-r-l for losing the screw of the [bit]." *Ibid.*, 19 July 1710, p. 206. Both brackets in published book. "Redskin Peter pretended to be sick and I put a [branding iron] on the place he complained of and put the [bit] upon him." *Ibid.*, 22 January 1711, p. 290. Both brackets in published book. "Redskin Peter was particularly well and worked as well as anybody." *Ibid.*, 23 January 1711, pp. 290-291. "Redskin Peter pretended he fell and hurt himself but it was dissimulation." *Ibid.*, 10 January 1712, p. 468. "Redskin

Peter was very well again after he had worn the bit 24 hours and went to work very actively.” *Ibid.*, 11 January 1712, p. 468. “My man Redskin Peter pretended again to be sick, for which I put him [on the bit]. . . .” *Ibid.*, 15 March 1712, p. 501. Brackets in published book.

Byrd might substitute tying up for the bit. “Redskin Peter was again sick in pretence but I tied him up by the leg to cure him and it did cure him.” *Ibid.*, 12 May 1712, p. 529.

In Virginia in 1687 a slave who was the leader of an abortive uprising “was whipped around Jamestown from the prison to the gallows and back, forced to wear an iron collar for the rest of his life, and forbidden ever to leave his master’s plantation.” Tate, *The Negro in Eighteenth-Century Williamsburg*, p. 110.

For an iron collar on a Negro woman in the 1830s after she was caught in bed with her overseer, see Taylor, *Negro Slavery in Louisiana*, p. 225.

<sup>29</sup> *Maryland Gazette*, 14 August 1751, 21 June 1764, 10 October 1771. One of the Negroes with a scar on her throat was a woman.

For the iron collar and chain on a runaway slave in the nineteenth century, see Phillips, *Life and Labor in the Old South*, p. 208. For the iron collar alone on a runaway slave in the nineteenth century, see Sydnor, *Slavery in Mississippi*, p. 92.

<sup>30</sup> *Maryland Gazette*, 29 August 1754. For irons on slaves when they ran away in the nineteenth century, see Stamp, *The Peculiar Institution*, p. 174; Phillips, *Life and Labor in the Old South*, pp. 293-294; Sydnor, *Slavery in Mississippi*, pp. 89, 92, 119, 120.

Sometimes in the nineteenth century slaves were kept in irons even though they had not run away. Richard C. Wade, *Slavery in the Cities: The South, 1820-1860* (New York: Oxford University Press, Inc., 1964), pp. 192-193.

<sup>31</sup> *Maryland Gazette*, 16 July 1772.

<sup>32</sup> *Ibid.*, 8 August 1771.

<sup>33</sup> *Ibid.*, 11 July 1771. For a slave with an iron collar and a bell in the nineteenth century, see Stamp, *The Peculiar Institution*, p. 174. Like animals also, in Kentucky in the nineteenth century slaves often wore iron collars, sometimes with bells on them and sometimes with prongs. Coleman, *Slavery Times in Kentucky*, p. 249. In Louisiana in the nineteenth century slave children were sometimes fed from a common trough. Taylor, *Negro Slavery in Louisiana*, p. 109.

<sup>34</sup> In Virginia in 1745 a slave who had run away persistently had irons on his legs. Tate, *The Negro in Eighteenth-Century Williamsburg*, pp. 55-56.

<sup>35</sup> *Maryland Gazette*, 13 August 1761.

<sup>36</sup> *Dunlap's Maryland Gazette*, 16 May 1775.

<sup>37</sup> *Maryland Gazette*, 21 June 1764. In Virginia the unclaimed Negro might be fitted with an iron collar and then hired out. Hugh F. Rankin, *Criminal Trial Proceedings in the General Court of Colonial Virginia* (Williamsburg: Colonial Williamsburg, 1965), p. 66n.

<sup>38</sup> The National Archives (PRO), Colonial Office 5, Vol. 724, p. 35.

<sup>39</sup> *Ibid.*, p. 170.

<sup>40</sup> *Ibid.*, Vol. 725, p. 285.

<sup>41</sup> *Ibid.*, Vol. 726, p. 217. The Board of Trade issued the same instructions to Lord Cornbury as governor of New Jersey in November of 1702. Richard S. Field, *The Provincial Courts of New Jersey*, New York: Bartlett & Welford, 1849), p. 239. Probably these instructions were conventional.

<sup>42</sup> *Md. Arch.*, XXIX, 348-349; TNA (PRO), Colonial Office 5, Vol. 727, pp. 392-393; *ibid.*, Vol. 189, pp. 160-161 (page 173 of transcript in Library of Congress).

<sup>43</sup> Donnell M. Owings, *His Lordship's Patronage: Offices of Profit in Colonial Maryland* (Baltimore: Maryland Historical Society, 1953), p. 120.

<sup>44</sup> 1692, c. 15, *Md. Arch.*, XIII, 457. We can not be sure just what sort of dismembering and cauterizing the assembly was referring to, but the law appears to have allowed a broad range of interpretation. How well it might have been enforced has not appeared.

<sup>45</sup> Somerset County Judicial Record, 1687-1689, pp. 84-86.

<sup>46</sup> Wills, Liber 4, pp. 6-7; Inventories and Accounts, Liber 8, p. 153.

<sup>47</sup> Hodges' Marriage References, State Archives, Annapolis. See also Somerset County Land Records, Liber I. K. L., p. 113.

<sup>48</sup> Somerset County Judicial Record, 1687-1689, pp. 84-86. Dr. Lois Carr, former St. Mary's City historian, first pointed this case out to me.

The impunity with which white men could maim or kill Negroes in Maryland in the eighteenth century is reminiscent of the medieval Europe, when masters could do just about anything they wanted to do with and to their serfs. In the fourteenth century the Emperor Charles IV "forbade his nobles to put out their bondmen's eyes, or cut off their noses, hands, or feet." See G. G. Coulton, quoting Bezold, in *Medieval Village, Manor, and Monastery* (Cambridge: Cambridge University Press, 1925; reprinted Torchbook edition; New York: Harper & Brothers, 1960), p. 489.

Still the killing of serfs apparently was fairly common in the thirteenth and fourteenth centuries. Coulton presents full evidence of this. *Ibid.*, pp. 107, 107n., 401, 437-438.

<sup>49</sup> Provincial Court Judgment Record, Liber R. B., No. 2, p. 205.

<sup>50</sup> The pledges of prosecuting were sureties to guarantee that the plaintiff would carry his action to a successful conclusion. If he did not, he and his sureties were

held in mercy, which means that they had to pay the amercement or the amount of the bonds. The amercement, in turn, was a small charge that the losing party in an action had to pay simply for the privilege of using the court. It was not the same thing as a penal fine, though according to Blackstone it was “a punishment for his false claim.” Sir William Blackstone, *Commentaries on the Laws of England* (10th edition; 4 vols.; London: Printed for A. Strahan, T. Cadell, and D. Prince, 1787), III, 376.

Whether the courts in eighteenth-century Maryland actually collected amercements is uncertain. According to Blackstone, by the eighteenth century the amercement was “disused,” though the form still continued. *Ibid.* See also John Bouvier, *Law Dictionary and Concise Encyclopedia* (3rd revision; 8th edition; 2 vols.; Kansas City: Vernon Law Book Co., 1914), I, 187; II, 2611.

There is some evidence that in Maryland the amercement was still collected in civil cases in 1768. Ledger H, No. 1, p. 17; Baltimore County Court Minutes, Liber B. B., 1755-1762, November courts for 1758, 1759, 1760, 1761, 1762.

In a criminal case it is probably safe to consider the amercement the same as a penal fine. Blackstone, *Commentaries*, IV, 379-380; Sir Frederick Pollock and Frederic William Maitland, *The History of English Law Before the Time of Edward I* (2nd edition; 2 vols.; Cambridge: Cambridge University Press, 1898; reprinted Cambridge: Cambridge University Press, 1968), II, 513-515.

<sup>51</sup> Since the slave was property rather than a person, killing one’s own slave was far less serious than killing one belonging to someone else, and that fact has a long history. According to Plato,

If . . . [a man] kill a slave, he shall secure the master against damage and loss, reckoning as if it were a slave of his own that had been destroyed, or else he shall be liable to a penalty

of double the value of the dead man, — and the judges shall make an assessment of his value, — and he must also employ means of purification greater and more numerous than those employed by persons who kill a man at games, and those interpreters whom the oracle names shall be in charge of these rites; but if it be a slave of his own that he has killed, he shall be set free after the legal purification.

Plato, *The Laws*, ed. R. G. Bury (2 vols.; Loeb Classical Library edition; Cambridge: Harvard University Press, 1926), II, 239-241.

There is no way to know how many masters there were like Arthur Hodge of the Virgin Islands.

Arthur Hodge, Esq., a gentleman by birth, was tried by [a] jury, condemned and hung in Tortola, one of the Virgin islands [sic], for the murder of several slaves by whipping them without intermission for over an hour, one of whom was lashed to a tree when he could no longer stand, and whipped till he fainted, and another till his black skin could not be seen. They were then carried to the ‘sick house’ and allowed to die without medical attention. He had tortured other slaves by pouring boiling water down their throats, eventually causing their death, or by dipping them in kettles of boiling liquid and burning them in the mouth with hot irons, and by inflicting successive “cart-whippings” at “short-quarters,” or loading them with heavy irons or chains. This man was the owner of some one hundred and thirty slaves, most of whom had experienced his cruelty.

Whipping at short-quarters:

In this punishment the whip was shortened so as to go around the whole body, striking the front as well as the back.

Ballagh, *A History of Slavery in Virginia*, p. 82, 82n.

<sup>52</sup> Provincial Court Judgment Record, Liber E. I., No. 7, pp. 635-636, 663-664.

Philip Selby was Parker Selby’s father and the owner of the slave. Worcester County Wills, Liber J. W., No. 3, pp. 13-14. Matthew might have been Parker’s brother.

<sup>53</sup> Provincial Court Judgment Record, Liber D. S., No. C, pp. 336-337.

<sup>54</sup> *Ibid.*, Liber T. G., pp. 92-94. See Part I, “Servants,” above at Note 134.

<sup>55</sup> 1751, c. 14, *Md. Arch.*, XLVI, 620. 1751, c. 14 was supplemented by 1753, c. 26, *Md. Arch.*, L, 373-374. When Thomas Reynolds of Calvert County advertized for two Negro slaves, Jacob and Marlborough, he promised that if they resisted capture and somebody should “shoot or kill” them he would not seek any damages. *Maryland Gazette*, 11 February 1773.

<sup>56</sup> Owings, *His Lordship’s Patronage*, p. 128.

<sup>57</sup> *Ibid.*, p. 121.

<sup>58</sup> *Calvert Papers, No. Two, Selections from Correspondence*, Maryland Historical Society Fund Publication, No. 34 (Baltimore: Maryland Historical Society, 1894), p. 131.

<sup>59</sup> Owings, *His Lordship’s Patronage*, pp. 128-129.

<sup>60</sup> *Ibid.*, p. 121.

<sup>61</sup> Thus in eighteenth-century Maryland the suspect or defendant was considered guilty until he could prove himself innocent.

<sup>62</sup> *Calvert Papers, No. 2, Selections from Correspondence*, p. 170.

<sup>63</sup> *Ibid.*, pp. 153-154.

<sup>64</sup> Provincial Court Judgment Record, Liber D. D., No. 4, p. 146-147. The grand jury must have returned the indictment against Samuel Pottenger in September of 1761, since Nicholas Maccubbin was the foreman of the grand jury that returned it. *Ibid.*, Liber D. D., No. 1, p. 487.

<sup>65</sup> In Virginia, “A law of 1723 decreed that there should be no penalty imposed upon a white tried for the murder of a slave and found guilty only of manslaughter.” Richard Hofstadter, *America at 1750: A Social Portrait* (Vintage edition; New York: Random House, Inc., 1973) p. 124. Hofstadter’s reference is to John C. Hurd, *The*

*Law of Freedom and Bondage in the United States* (1838), I, 232ff.

<sup>66</sup> *Md. Arch.*, XXXII, 255-256; Provincial Court Judgment Record, Liber D. D., No. 15, pp. 6, 10, 14-16; Executive Papers, 1715-1783, Accession 9911; Commission Records, 1733-1773, p. 219.

The earlier letter from Lee apparently has not survived. The ordinary punishment for manslaughter was the branding of an M on the brawn of the convict's right thumb and the forfeiture of his estate. *Md. Arch.*, XXV, 119-120, 150; Blackstone, *Commentaries*, IV, 193. Lee's letter illustrates that it was the punishment, not the committing of the crime, that was the disgrace.

The assize courts were circuit courts conducted by justices of the provincial court who went from county to county to hear cases so that suitors would save the time and expense of going to Annapolis for the sessions of the provincial court but also, it appears clear, to increase the power of the provincial justices at the expense of the county justices. C. Ashley Ellefson, *The County Courts and the Provincial Court in Maryland, 1733-1763* (New York: Garland Publishing, Inc., 1990), pp. 73-114.

<sup>67</sup> Provincial Court Judgment Record, Liber D. D., No. 4, pp. 132, 151-152; Liber D. D., No. 5, p. 298; Liber D. D., No. 6, p. 306; Commission Records, 1733-1773, p. 165. Since the indictment is not written out there is no way to know how Lee was supposed to have killed Negro Nace. The pardon does not describe the crime.

<sup>68</sup> The *nolle prosequi*, or *non pros*, was simply an order from the governor to the attorney general or clerk of indictments not to prosecute a case any further. Sometimes the attorney general or the clerk of indictments might have entered a *non pros* on his own. The clerk of indictments was the county prosecutor.

<sup>69</sup> Provincial Court Judgment Record, Liber D. D., No. 19, pp. 1, 384. The provincial court record mentions only a presentment against Lee, but an indictment was sometimes called a presentment. The application for the *non pros* is in the New York Historical Society, Miscellaneous Manuscripts: Maryland. Dr. Edward Papenfuse, the Maryland State Archivist and Commissioner of Land Patents, found it and provided me with a copy of it.

From the Council Proceedings, 2 August 1814:

Whereas by an inquisition held on the body of a certain negro man, a slave, the property of a certain John Cover, on the fifth of July last. [*sic*] it was found that the said negro came to his death from the unmerciful beating, and other ill treatment received from his said master, John Cover; and it has been represented to me, that the said John Cover has fled from Justice, and it being of the greatest importance to society that the perpetrator of such a crime should be brought to condign punishment. [*sic*] I have therefore thought proper to issue this my proclamation, and do, by and with the advice and consent of the council, offer a reward of Two Hundred Dollars to any person who shall apprehend and deliver the said John Cover to the Sheriff of Frederick County. Given in Council, at the City of Annapolis, under the Great Seal of the State of Maryland, this second day of August in the year of our Lord one thousand eight hundred and fourteen[.]

Levin Winder

Ordered that the foregoing proclamation be published four weeks in the Maryland Gazette, Federal Republican, Federal Gazette, Frederick Town Herald and the Plain Dealer.

Council Proceedings, 1813-1817, p. 73.

<sup>70</sup> Commission Records, 1726-1786, p. 108; *Maryland Gazette*, 7, 28 December 1752. Since the record of the prosecution of Peter Ball has not appeared, we have no details about how he killed his slave.

A court of oyer and terminer and jail delivery was a special court appointed to

hear one or more cases so that suspects would not have to be kept in jail until the next session of the provincial court or the assizes. While usually these courts tried capital cases, they also tried non-capital ones. In non-capital cases the suspects would be kept under bond rather than in jail. Ellefson, *The County Courts and the Provincial Court in Maryland, 1733-1763*, pp. 114-118.

<sup>71</sup> Commission Records, 1726-1786 (orig.), p. 93; *Md. Arch.*, XXVIII, 388; *Maryland Gazette*, 21 April, 5 May 1747; Provincial Court Judgment Record, Liber E. I., No. 10, pp. 485, 494-495.

Thomas Lamb was the only white man we have found who was hanged in eighteenth-century Maryland for murdering only a Negro, but on 8 July 1767 Levi Thompson alias Game alias Fortune was hanged in Somerset County for murdering a Negro slave *and* a white man. Commission Records, 1726-1786, p. 166; *Md. Arch.*, XXXII, 200; Provincial Court Judgment Record, Liber D. D., No. 12, pp. 646, 648-650, 650-652. Thompson was condemned for each murder separately.

<sup>72</sup> 1737, c. 2, *Md. Arch.*, XL, 86-87.

<sup>73</sup> Provincial Court Judgment Record, Liber D. D., No. 17, pp. 1, 4; Commission Records, 1726-1786, p. 180; Executive Papers, 1715-1783, Accession 9911.

<sup>74</sup> The record refers to Negro Marriah as a servant rather than as a slave. It is possible, of course, that she was in fact a servant instead of a slave.

<sup>75</sup> Provincial Court Judgment Record, Liber T. G., p. 22.

<sup>76</sup> *Md. Arch.*, XXXI, 101; Provincial Court Judgment Record, Liber T. G., pp. 36-37; Liber P. L., No. 1, pp. 153-155; Liber V. D., No. 3, pp. 198-199; Liber B. T., No. 5, pp. 827-828; Liber D. D., No. 9, p. 1; Blackstone, *Commentaries*, IV, 18-183, 184.

<sup>77</sup> Provincial Court Judgment Record, Liber R. B., No. 1, p. 318.

<sup>78</sup> Harsh treatment of slaves might have led to their suicide, as it led to the suicides of servants. For the suicide of slaves in the nineteenth century, see Taylor, *Negro Slavery in Louisiana*, pp. 12, 180; Taylor, *Negro Slavery in Arkansas*, p. 231.

<sup>79</sup> Negro Cesar's complaint against Thomas Stockett Jr. is the only complaint I have found of a slave against his master.

<sup>80</sup> The other three cases in which Jonas Green reported the deaths of slaves at the hands of white men were those of Thomas Lamb and Peter Ball, both of which I have mentioned earlier, and of an unidentified man who was committed to jail in St. Mary's County early in 1764 for the murder of a Negro woman. *Maryland Gazette*, 26 January 1764. I have found no prosecution in this case.

<sup>81</sup> *Maryland Gazette*, 26 March 1761. Italics and capitals in original.

<sup>82</sup> *Ibid.*, 23 October 1766. Dr. Scott might have been Dr. Andrew Scott of Prince George's County. *Md. Arch.*, XXVIII, 388.

<sup>83</sup> *Maryland Gazette*, 1 April 1762.

<sup>84</sup> Bassett, *Slavery in the State of North Carolina*, pp. 11-12.

<sup>85</sup> Samuel Eliot Morison and Henry Steele Commager, *The Growth of the American Republic* (4th ed.; 2 vols.; New York: Oxford University Press, 1950), I, 539.

<sup>86</sup> Ballagh, *A History of Slavery in Virginia*, p. 140.

<sup>87</sup> Sydnor, *Slavery in Mississippi*, p. 62.

<sup>88</sup> 1704, c. 23, *Md. Arch.*, XXVI, 259; 1715, c. 44, *Md. Arch.*, XXX, 289.

<sup>89</sup> 1692, c.15, *Md. Arch.*, XIII, 457.

<sup>90</sup> 1671, c. 2, *Md. Arch.*, II, 272; 1676, c. 2, *Md. Arch.*, II, 549; 1692, c. 52, *Md. Arch.*, XIII, 505-506; 1704, c. 23, *Md. Arch.*, XXVI, 259. A new act was passed in 1715. 1715, c. 44, *Md. Arch.*, XXX, 289.

<sup>91</sup> 1729, c. 4, *Md. Arch.*, XXXVI, 454.

<sup>92</sup> Ballagh, *A History of Slavery in Virginia*, pp. 102, 102-103; Coleman, *Slavery Times in Kentucky*, p. 29; Oliver Perry Chitwood, *A History of Colonial America* (3rd edition; New York: Harper and Row, Publishers, 1961), p. 351.