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THE EFFECTS OF THE AMERICAN REVOLUTION ON INDENTURED SERVITUDE

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INDENTURED servants probably were exceeded as a source of labor in the American colonies in the latter part of the eighteenth century both by free laborers and Negro slaves. Despite their relative numerical inferiority, however, such servants constituted an important segment of the colonial laboring class. As yet there has been no comprehensive history of that segment, or of the whole class either, although there have been good regional studies of the system of indenture, particularly in Pennsylvania and Maryland.¹ The emphasis in all of these, however, as is quite natural, has been on the period preceding the Revolution. No one seems to have studied specifically the effects of the Revolution on indentured servitude, and the history of the system in the nineteenth century remains deeply shrouded in un-

¹ The best study of indentured servitude is C. A. Herrick, *White Servitude in Pennsylvania* (Philadelphia, 1926). K. F. Geiser, *Redemptioners and Indentured Servants in . . . Pennsylvania* (Reprinted from *Yale Review*, o.s. New Haven, Conn., 1901); and E. I. McCormac, "White Servitude in Maryland 1634-1820," *Johns Hopkins University Studies in Historical and Political Science*, XXII, Nos. 3-4 (Baltimore, 1904), are valuable. Other useful studies include M. W. Jernegan, *Laboring and Dependent Classes in Colonial America, 1607-1783* (Chicago, 1931), and S. McKee, Jr., "Labor in Colonial New York," *Columbia University Studies in History, Economics and Public Law*, CDX (New York, 1935).

certainty. This paper is an attempt at least to define the field of the first problem; the uncertainties of the later history of indentured servitude shall remain, as far as we are concerned, unmolested. This study has been based primarily upon statutory law in the period 1775 to 1789. No one can be more deeply impressed than the author with the limitations of this narrow legalistic approach. His apology is that this is a necessary point of departure, if not a sufficient one, and he has, when occasion allowed, risen above its restrictions.

It has been the habit of writers on white servitude in America to distinguish among various types of servants—indentured servants, redemptioners, convicts, free-willers and (imported) apprentices.² These distinctions are important, but only in relation to the servant's origin and to his contract with the ship captain who brought him to America. Once landed in America and once his time was sold, it mattered little in law or custom to which category a servant belonged. Whether he was an indentured servant or a redemptioner might determine whether he would be a farm laborer, a domestic or an artisan.³ His status as infant, convict or free-willer, might determine the price his time would bring. Once his contract was sold, however, and once his occupation settled, such distinctions disappeared, for transported felons, indentured servants and alien apprentices⁴ were equal before the law in the American colonies and in the American states.⁵

It is not necessary for us here to descant upon this law of

² K. F. Geiser, *Redemptioners and Indentured Servants in . . . Pennsylvania*, p. 6; C. A. Herrick, *White Servitude in Pennsylvania*, pp. 3-4, 195-196; Basil Sollers, "Transported Convict Labor in Maryland during the Colonial Period," *Maryland Historical Magazine*, II (1907), 17-47.

³ English and Irish immigrants were generally called "indentured servants"; Germans, "redemptioners." Only the former were employed as domestics and skilled artisans; the Germans generally worked on the farm. See E. L. McCormac, "White Servitude in Maryland, 1634-1822," *Johns Hopkins University Studies in History and Political Science*, XXII, 35, 107; J. B. McMaster, *History of the People of the United States* (8 vols., New York, 1914), II, 557.

⁴ Domestic apprentices were considered in a different category from (legal) infants imported to serve a contracted time. See "Respublica v. Keppele," *Pennsylvania Reports*, 2 Dallas 197, reprinted in 1 Yeates, 233 f. This case was adjudicated in 1793. Cf. C. A. Herrick, *White Servitude in Pennsylvania*, pp. 107-108.

⁵ See e.g., *Laws of Maryland*, March session, 1780, Ch. 24, Sec. 17; A. J. Dallas (as cited in note 7). Cf. S. McKee, Jr., "Labor in Colonial New York," *Columbia University Studies in History, Economics and Public Law*, CDX, 102.

master and servant, for in the period we are considering, no changes were made in the rights of either party or in the obligations of one to the other. Certainly not in statutory law nor apparently in custom either, was there any departure from colonial practice. Perhaps the most important legal fact in colonial times was that the servant virtually was the personal property of his master and this remained true in state law as well, though the servant was born free and endowed with the unalienable right of liberty in 1776.⁶ In law the servant represented little more than his contract and with certain procedural, geographic and occupational restrictions, this was a freely negotiable paper—negotiable, that is, by the master alone.⁷

That the privileges and duties of the contracting parties apparently remained fixed during and after the war, however, does not mean that the indenture system itself was untouched by legislation. We have found four laws, enacted between 1775 and 1789, exclusive of those dealing with convicts and state militia, that did affect the institution of contract labor. Of these, one is of little account⁸ and the other three were designed to encourage the growth or crystallize the form of the system. The only one that was prompted by ideas of liberty was the law for the gradual abolition of slavery passed by the legislature of Pennsylvania in 1780 and this affected white servitude only in giving the Negro, as his first step toward freedom, the status, in many respects, of an indentured servant before the law.⁹ In its rela-

⁶ See e.g., resolutions of the Committee of Cumberland County, Pa., May 15, 1777, *Pennsylvania Archives*. First Series, V, 340. Cf. J. B. McMaster, *History of the People of the United States*, II, 558-559; C. A. Herrick, *White Servitude in Pennsylvania*, p. 290.

⁷ See A. J. Dallas, ed., *Laws of the Commonwealth of Pennsylvania . . . 1700 to 1797* (Philadelphia, 1797), I, Ch. 49, Sec. II. This law, providing conditions of sale and transfer of servants, was passed in 1700 and was still in force in 1797.

⁸ This was a law passed in Virginia in 1785 that inhibited the master from assigning the contract of a servant to another without the servant's consent. See Edmund Randolph, ed., *Abridgment of The Public Permanent Laws of Virginia* (Richmond, 1796), 350. Cf. J. C. Ballagh, "White Servitude in The Colony of Virginia," *Johns Hopkins Studies in Historical and Political Science*, Series X, XIII, nos. 6-7, Baltimore, 1895, 65-67. This law, says Ballagh was passed when "the system itself was practically at an end." There is no indication that the Revolution influenced its passage or its subsequent operation.

⁹ *Laws of Pennsylvania*, March Session, 1780, Ch. 146; cf. E. R. Turner, *The Negro in Pennsylvania 1639-1861* (Washington, D. C., 1911), p. 92.

tion to the white servant, this act disturbed neither his natural equality with other men nor his unnatural bondage to them.

The other two laws were those passed by Pennsylvania in 1785 and New York in 1788. Both were meant to encourage the growth of white servitude, the first by making it easier for the German immigrant to find his place in America¹⁰ and the second by reaffirming the sanctity of the contract made between the servant and his master. It is true that the New York law specifically limited the tenure of service that could be demanded of the servant and the age beyond which an apprentice need not serve.¹¹ But these provisions were included only to make tradition into written law, the better to assure the immigrant, the dealer and the purchaser of the validity of his contract.¹²

The Revolution clearly influenced the passage of the last two acts, but that was due rather to the war itself and the independence attendant upon its conclusion, than to any concern for natural rights or embarrassment over their absence in the new nation. When armed conflict began, immigration ceased and when hostilities ended, the flow from Germany and Ireland began again. The quantity of this post-war immigration apparently equalled at least what it had been before the war¹³ and the renewed pressure of numbers thus brought to bear, combined with the campaign of two decades by the German Society of Pennsylvania, was undoubtedly responsible for the Pennsylvania law to ameliorate the conditions to which the German immigrant was subjected on his arrival at Philadelphia.¹⁴ The outcome of the Revolution pre-

¹⁰ This law of 1785 for the first time provided for the appointment of a special register for newly arrived German passengers, one who could speak the language and assist newcomers to get their bearings in America. See *Laws of Pennsylvania*, April 8, 1785, Ch. 214.

¹¹ *Laws of New York*, 11th Session, 1788, Ch. XIII (February 6, 1788). This law provided that male apprentices could be held only till twenty-six years of age, females, till eighteen. Servants of age were not to serve more than four years.

¹² See S. McKee, Jr., "Labor in Colonial New York," *Columbia University Studies in History, Economics and Public Law*, CDX, note, p. 103; see also, law cited in note 11, especially section II.

¹³ Cf. K. F. Geiser, *Redemptioners and Indentured Servants in . . . Pennsylvania*, p. 39; Edward Channing, *A History of the United States* (7 vols., New York, 1912-25, 1932), III, 553; Phineas Bond, "Letters of Phineas Bond to The Foreign Office of Great Britain, 1787-1789," *American Historical Association Annual Report*, 1896, I, 513-660.

¹⁴ See F. R. Diffenderfer, "The German Immigration into Pennsylvania . . . and 'The Redemptioners,'" *Pennsylvania German Society Proceedings and Addresses* (Lancaster, Pa., 1900), X, 263; E. Risch, "Immigrant Aid So-

cluded British opposition to this encouragement of German immigration, and the persistence of the war till 1783, determined its date. Had the war ended sooner or had British objections to such immigration been removed in some other way, this law, I think, would have been enacted earlier. At least, after 1770, except for the war years, its need was acutely felt.

The Germans, after their bitter experience in New York between 1709 and 1723,¹⁵ did not come again in large numbers to the future empire state until well into the nineteenth century. But New York, after the Revolution, needed labor as much as did Pennsylvania and the act passed by its legislature in 1788 was an attempt partially to satisfy that need. Its wording indicates that contracts of apprentices and servants had been but loosely enforced, perhaps only during the war, perhaps before as well. Its purpose was to assure all parties to the contract that such laxity was at an end.¹⁶ This act probably was addressed to the Irish and German immigrants who were beginning to come again after 1787 and to purchasers of their time. If this is true, here again the influence of the Revolution is seen in determining the date of the law as well, perhaps, as its necessity, for it is possible that it was the enlistment of runaways without compensation to the master that prompted the latter's doubts about the usefulness of his contract.¹⁷

That the Revolution was thus partly responsible for these acts by state legislatures is clear enough. But that these laws can be said to have affected in any fundamental way the institution of white servitude is doubtful. The Pennsylvania law touched the servant only at the time of his arrival and sale. It was inoperative

cieties Before 1820," *Pennsylvania Magazine of History and Biography* (1936), LX, 18-19; W. Priest, *Travels in the United States of America, 1793-1797* (London, 1802), p. 145.

¹⁵ See K. F. Geiser, *Redemptioners' and Indentured Servants in . . . Pennsylvania*, pp. 30-31; F. Kapp, *Immigration and The Commissioners of Immigration of the State of New York* (New York, 1870), p. 9.

¹⁶ See law referred to in note 11, especially sections 2, 8.

¹⁷ Cf. S. McKee, Jr., "Labor in Colonial New York," *Columbia University Studies in History, Economics and Public Law*, CDX, 175.

Apparently the apprentice in New York also had his suspicions based upon past experience, for the opening section of the law of 1788 sought to reassure him by levying a forty pound fine against any master (half of which was to go to the person who brought the suit) for inhibiting any "apprentice or journeyman" whose term of service had expired, "to set up, keep, or occupy any house, shop, or cellar and therein use such of his . . . art, craft, mystery, profession, trade, employment or manual occupation."

once the contract was negotiated. The New York act wrote into statutory law only what had long been custom and its provisions, while they defined the term of service, like the Pennsylvania law affected in no way the relation of master and servant during that term.

It is possible, nevertheless, to find in the Pennsylvania act of 1785, the opening wedge for the ameliorative legislation of the future, both American and European—legislation which gradually alleviated the horrors of the voyage and in direct consonance, dissolved the profits from the servant trade. This legislation was one of the important factors in the disappearance of that trade after 1817 and the Revolution may thus have accelerated the accomplishment of that result.

That such legislation was ever passed, however, indicates quite clearly the ebbing power of those engaged in the servant trade and this, in turn, suggests that there were prior factors involved in its decline—social and economic factors in Europe and America that promoted Negro slavery in the South, mobilized free labor in the North and made Europe anxious to keep her own people at home. The American Revolution, it seems, if at all operative, was only distantly so in creating these conditions—England, for instance, would have kept her trained artisans in England after the Industrial Revolution whether America was yet dependent or free—and thus to attribute to it any important role in the disappearance of white servitude is far fetched.

Ideologically too, the Revolution seems to have wrought little change in the indenture system, for while some conscionable masters might have released their servants in conforming with their avowed philosophy of natural rights, it is certain there was no wholesale reformation when that philosophy was proclaimed the new touchstone of Americanism in 1776.¹⁸ White servitude fell into disuse in Virginia much earlier than in Pennsylvania; it

¹⁸ McKee alone has found a newspaper article to indicate any stirrings against the indenture system prompted by the new ideology. This appeared in the *Independent Gazette* of January 24, 1784. It described how a group of men who felt the system "contrary to . . . the idea of liberty this country has so happily established," banded together to release a shipload of servants lately arrived in New York, and to arrange for public subscription to pay for their passage. See S. McKee, Jr., "Labor in Colonial New York," *Columbia University Studies in History, Economics and Public Law*, CDX, 175-176. Careful searching in newspapers of other ports of entry may reveal similar activity in this period.

was more tenacious in Maryland than in New York. These variations cannot be explained in terms of first principles, nor can the Revolution be said to have created the material conditions which would be sufficient explanation for them.

When we turn from such ultimate considerations to more immediate ones, we do find evidence that the Revolution, like other wars in relation to other institutions, wrought disturbances upon white servitude. But these were rather temporary than lasting, though it is not always easy to judge just how deep or pervasive they were. In Pennsylvania and Maryland, however, the two states most concerned with white servants, the system seems to have persisted during and after the Revolution with no notable changes until the second decade of the nineteenth century, thus indicating that if the war did work real changes, it was a long time before their effect was felt.

We have said that the initiation of hostilities in 1775 utterly stopped immigration to America and that the end of the war started it again at an unabated pace. There was, however, one notable difference after 1783. That was the absence of the convict class that had been, right up to the war, transported to America in ever increasing numbers. That adventurers in the convict trade were not completely shut out of American ports after the war is clearly shown by the legislation against them enacted in many states in 1788 and 1789.¹⁹ There is no doubt, however, that the number of convicts successfully landed in America in the half decade after the close of the war was only a small fraction of those transported annually up to 1775. What is remarkable about this apparent decimation of the number of new servants, particularly in Maryland, the chief state of entry for this class, is

¹⁹ On September 16, 1788, the Continental Congress resolved to recommend to the states that they "pass proper laws for preventing the transportation of convicted malefactors from foreign countries into the United States." W. C. Ford, ed., *Journals of the Continental Congress* (34 vols., Washington, D. C., 1907 et seq.), XXXIV, 528. At least five states responded, those being South Carolina, Rhode Island, Connecticut, Pennsylvania and Virginia, all of them in 1788 except Pennsylvania where action was delayed until 1789. These laws all forbade importation of convicts and levied varying fines for infraction. The strongest provisions for enforcement were in the South Carolina act. (See note I at end of this paper.) Cf. R. L. Garis, *Immigration Restriction* . . . (New York, 1927), pp. 22-3; C. A. Herrick, *White Servitude in Pennsylvania*, pp. 135-136. Garis mentions that New York passed such a law in 1788 and Massachusetts in 1791, but neither of these appears in the session laws of those states.

that it seems to have affected the vitality of the indenture system hardly at all. At least no writer on the subject has been impressed with any such result. On the contrary, the colonists, whose interest in white servitude was no jot lessened by the war and its successful conclusion, accepted this change with joy, for it represented the unexpected end of their long but heretofore unsuccessful fight to keep felons marked for transportation out of their ports.

If the exclusion of convicts after the war hardly affected white servitude, so too, the enlistment of servants during the war seems to have had no important consequences. It is impossible to learn just how many servants were enlisted; what evidence we have suggests different conclusions for different places.²⁰ It is equally impossible to determine just how many of those enlisted were freed after serving an army term.²¹ This much, however, is abundantly clear, that if army officers thought the struggle for liberty would prompt masters to allow their servants to enlist,

²⁰ For Maryland, says McCormac, "there is no evidence that the number of this class of recruits was very large" during the Revolution. On the other hand, so many servants seem to have enlisted from Lancaster County, Pennsylvania, that the County Treasurer refused, in 1781, to pay masters for the time of their enlisted servants "since it will take more state money than we will receive in taxes." He had already paid out 415 pounds, 10 shillings. See *Pennsylvania Archives*, First Series, VIII, 730.

²¹ Only three states, Maryland, New Jersey and Pennsylvania passed laws making for compensation to the master for his enlisted servant's time, and one of these laws, that of Maryland, was repealed only a few months after it was passed. Only two states, New York and Maryland, specifically prohibited the enlistment of servants without the consent of the master, and these acts made no mention of ultimate freedom. Only two states, Pennsylvania and Virginia, specifically exempted servants from serving in the army and only Maryland and New Jersey specifically recommended their enrollment in the militia without requiring the consent of the master or making compensation to him. The militia laws of almost every state had a provision requiring the parent, master, or guardian to outfit any one in their charge who was called to the colors, and holding such parent, etc., responsible for all fines levied, on such charges, thus indicating that apprentices, if not servants, were generally considered available for the army. In no law was it ever specifically stated that the servant should be free after he had served his army term, though it is presumed that those whose time was bought, were to be free. For details of these militia laws, see Note II, at end of this paper. See also, references in note 27.

Hurd says, "In 1777 servants enlisted in the Continental army were deemed freemen by the [Continental] Congress with the understanding that compensation was to be made to the masters for loss of service." J. C. Hurd, *The Law of Freedom and Bondage in The United States* (2 vols. Boston, 1858), I, 220-221. This, however, is mistaken. The Continental Congress had no power to free servants and could only recommend such a move to the states. While such a recommendation was proposed, it made only for compensation, not for freedom, and it was never formally resolved and transmitted to the states. See *Journals of The Continental Congress* (as cited), April 14, 1777.

even with compensation to the master for their time, they were sadly mistaken. For though servants, without a doubt, were enrolled in the army, it was seldom without strong remonstrances from their owners.²² Coöperation from the public in filling the militia rolls was never conspicuous during the Revolution and obstruction was probably greatest when servants (and other forms of property) were involved.

It may be said that we have investigated the ways in which the Revolution might have affected white servitude but did not. At any rate, we have examined the major possibilities and if our conclusion is clear that the Revolution brought no lasting changes, that seems in accord with the facts.²³

It is possible, of course, particularly if workable statistical material can be gathered from contemporary newspapers or elsewhere, that more complete investigation will require revision of this view. There are, however, many indications that this will not be the case. As we have said, once the war was over, the flow of servants seems to have revived with its old vitality. Runaways seem to have been as numerous during and after the war as before.²⁴ In 1793, it was declared in Pennsylvania that any tampering with the institution of white servitude would bring severe social and economic dislocations.²⁵ In 1784, we find Washington ordering the purchase of servants with no apparent embarrassment.²⁶ The same is true of other men in public and private life, right up to 1817.²⁷ There is some indication that for a time before that

²² See e.g., Resolutions of May 15, 1777, of the Committee of Cumberland County, Pa. *Pennsylvania Archives*, First Series, V, 340; *Archives of Maryland*, XLV, 629.

²³ Cf. M. W. Jernegan, *Laboring and Dependent Classes in Colonial America*, p. 56; K. F. Geiser, *Redemptioners and Indentured Servants in . . . Pennsylvania*, p. 68; J. F. Jameson, *The American Revolution Considered as A Social Movement*, pp. 29-30; J. B. McMaster, *The Acquisition of Political, Social and Industrial Rights of Man* (Cleveland, 1903), pp. 33-34.

²⁴ The *Pennsylvania Packet*, for 1778, for instance, contains advertisements for nineteen different runaways, servants or apprentices, from January to October, that year. That is in consonance with Geiser's view on the number of runaways before and after the war. See K. F. Geiser, *Redemptioners and Indentured Servants in . . . Pennsylvania*, p. 40. See also, "Documents Relating to the Revolutionary History of the State of New Jersey," *New Jersey Archives*, Series II, Volumes I, II, III, *passim*.

²⁵ See argument of counsel in "*Respublica v. Keppele*," as cited in note 4.

²⁶ Washington to Tilghman, March 24, 1784, *Writings of George Washington*, W. C. Ford, ed. (14 volumes, New York, 1889-1903), X, 371.

²⁷ Samuel Breck, *Recollections of Samuel Breck with Passages from His Notebooks, 1771-1862* (Philadelphia, 1877), pp. 296-7; J. R. Commons, ed.,

date and always thereafter, the supply of servants, particularly from England and Ireland, was diminishing.²⁸ But that, as we have intimated, cannot be attributed to any belated influence of the American Revolution. Nor can the Revolution claim credit for increasing leniency toward servants, for that apparently was a concomitant of the decline of the system and was noticed in some places even before the war began.²⁹ In 1784, Geiser found an instance of a servant and his wife binding themselves out voluntarily for a second term, after their first had expired.³⁰ But this self-immolation, if such it can be called, was not a post-war development. It was remarked by Peter Kalm about 1750, and said by McCormac to have occurred "very often."³¹

The evidence seems to indicate, therefore, that while the Revolution disturbed the orderly functioning of white servitude—by temporarily halting immigration and by more or less frequently commandeering servants for the army—it left few scars on the institution when the war was over. Neither war or independence, nor the latter's attendant philosophy seems to have loosed the servant's bonds. If there was any change, it was rather to crystallize than dissolve the system.

SPECIAL NOTE I

State Laws Excluding Convicts

These citations are from session laws, unless otherwise stated.

State	Session	Date passed
South Carolina	October, 1788	November 4, 1788
Connecticut	" "	n.d.
Virginia	" "	November 13, 1788
Pennsylvania	" "	
	(Second sitting)	March 27, 1789
Rhode Island	" "	n.d.

(From *Acts and Resolves of The General Assembly*, n.d.)

A Documentary History of American Industrial Society (10 volumes, Cleveland, 1911), I, 355-6; L. P. Henninhausen, "The Redemptioners and The German Society of Maryland," in the *Second Annual Reports Society for The History of Germans in Maryland* (Baltimore, 1888), pp. 8-9.

²⁸ Cf. E. J. McCormac, "White Servitude in Maryland," *Johns Hopkins University Studies in Historical and Political Science*, XXII, pp. 107-108.

²⁹ See J. C. Ballagh, "White Servitude in the Colony of Virginia," *Ibid.*, Series X, XIII, 66-67.

³⁰ K. F. Geiser, *Redemptioners and Indentured Servants in . . . Pennsylvania*, p. 75.

³¹ O. Kuhns, *The German and Swiss Settlements of Colonial Pennsylvania* (New York, 1901), quotes Peter Kalm's *Travels in North America*, see p. 82. See also, E. I. McCormac, "White Servitude in Maryland, 1634-1820," *Johns Hopkins University Studies in Historical and Political Science*, XXII, 40.

SPECIAL NOTE II

Militia Laws Passed During the Revolution Specifically
Affecting White Servants

A. *Laws Compensating Master for Enlisted Servant's Time*

<i>State</i>	<i>Session</i>	<i>Date Passed</i>
Maryland	February, 1777	n.d. (Ch. III)
New Jersey	1777	May 28, 1777
Pennsylvania	1778	March 11, 1778

(Maryland law repealed, June, 1777)

B. *Acts for Enlistment with Consent of Master Only (No compensation)*

<i>State</i>	<i>Source</i>	<i>Date Passed</i>
New York	<i>Calendar of Historical Manuscripts Relating to The War of the Revolution</i> (2 volumes, Albany, 1868), II, 11	October 23, 1776
Maryland	<i>American Archives</i> (P. Force, Comp. November 8, 1776 Series V, 3 vols., Wash., D. C., 1848-53), III, 164	
Maryland	<i>Laws</i> , March Session, 1778	n.d. (Ch. V)
Continental Congress	(for navy enlistment)	January 15, 1776

Journals of the Continental Congress

C. *Laws Specifically Exempting Servants from Militia*

<i>State</i>	<i>Session</i>	<i>Date passed</i>
Virginia	May, 1777	n.d. (Ch. II)
Pennsylvania	1780	March 20, 1780

D. *Servants Specifically Available for Enlistment without Compensation to
the Master and without Requiring his Consent*

<i>State</i>	<i>Session</i>	<i>Date passed</i>
Maryland	June, 1777	n.d. (Ch. VIII)
New Jersey	1777	March 15, 1777 (Ch. XX, Sec. 14)