

# The End of Black Voting Rights in Pennsylvania: African Americans and the Pennsylvania Constitutional Convention of 1837-1838

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In 1838 Pennsylvania voters ratified a new state constitution restricting the franchise to “white freemen” only. Thus the question of suffrage qualifications and race that the 1776 and 1790 constitutions left ambiguous was settled. For the next thirty-two years, until 1870 when the Fourteenth Amendment of the United States Constitution was ratified, Pennsylvania’s black males could not vote. Surprisingly, Pennsylvania historiography has paid little attention to this disenfranchisement and African American opposition to it. Historian David McBride’s essay on the obscure *Gardner-Hinton Memorial* is the only study which examines the responses by black Pennsylvanians to disenfranchisement. Historians such as Edward Turner, Ira V. Brown, Leroy Hopkins, and myself, up until now, have mentioned only in passing two other documents of black protest in the 1830s: the *Appeal of Forty Thousand Citizens*, and the *Pittsburgh Memorial*. Given the extent of black protest, it is clear that future discussion of the 1837 constitutional convention must begin to pay more attention to African Americans’ efforts to retain the franchise.<sup>1</sup>

But there are other reasons why we must revisit the black disenfranchisement episode. Prior to the passage of the Fourteenth Amendment the United States Constitution did not address the issue of black voting; this was left to the states. By 1838, the states held one of four positions on African American suffrage. Maine, Massachusetts, New Hampshire, Rhode Island, Vermont, and New York did not bar African-American males from voting. In New York the constitution had been amended in 1821 to allow African Americans to vote who owned \$250 of taxable property. The South forbade the African American to vote, slave or free. New states entering the Union adopted constitutions explicitly excluded African Americans from voting. Finally, a number of states had constitutions which originally permitted black voting but were amended later to exclude it: the slave states of Delaware with prohibition in (1792), Kentucky (1799), and Maryland (1809), and the free states of Connecticut (1818), New Jersey (1820) and Pennsylvania (1838). As historian Kirk H. Porter observed: “the action of Pennsylvania in excluding the Negro marks a turning point in the development of the Negro suffrage controversy...[it] put an end to changes in the Negro suffrage situation until the Fourteenth Amendment was passed.”<sup>2</sup>

Scholarship on this topic has failed to give us a complete and cohesive picture of why disenfranchisement occurred in Pennsylvania. For instance

historian Roy Akari aptly describes the work of the 1837 Pennsylvania constitutional convention but fails to mention the protests by African Americans. Even more puzzling is historian Gary Nash's excellent book on black Philadelphia life from 1720 to 1840 – *Forging Freedom* – whose time-frame includes the disenfranchisement episode, although Nash acknowledges it only in passing. Historian Lyle Rosenberg's essay on the October, 1837, Bucks County election describes the partisan issues which shaped debate in the constitutional convention concerning black suffrage. But his study ought to be interpreted not just as local history but state history. Historian Edward Price has provided us with a valuable account of how the Philadelphia black elite fought against disenfranchisement. But Price neglects the role of blacks in Pittsburgh in lobbying for constitutional rights. What may be, perhaps the best comprehensive study of the period and subject – *Philadelphia's Black Elite* – by Julie Winch brilliantly discusses the participation of both Philadelphia and Pittsburgh blacks in the battle for suffrage. Missing, however, from Winch's study is a discussion of how black suffrage was a partisan issue in Pennsylvania.<sup>3</sup> The minutes of the constitutional convention of 1837-1838 as well as the newspapers of the day demonstrate that the Whigs, Anti-Masons, and Democrats exploited the black suffrage issue for their own political advantage.

Because of the inadequate scholarship on this topic, we must re-examine the whole historical context in which black disenfranchisement in Pennsylvania occurred. What was the franchise amendment which preoccupied the 1837-38 Pennsylvania constitutional convention and how did the convention delegates and their constituencies regard it? How did the deterioration of race relations in the Commonwealth hasten the trend toward black disenfranchisement? By presenting the perspectives of both white and black participants, suggesting social factors and motives and analyzing these within a historical narrative, this essay seeks to explain what happened to Pennsylvania blacks in 1838.

## I

In 1837, no one was certain whether the framers of the 1790 Pennsylvania constitution *intended* to include free blacks as freemen. On the one hand blacks argued that Article III, Section One of the constitution made no reference to race. On the other hand, some politicians assumed that any reference to freemen meant white men. Article III in fact declared

In elections by the citizens, every freeman of the age of twenty-one years, having resided in the State two years next before the election, and within that time paid a State or county tax, which shall have been assessed at least six months before the election, shall enjoy the rights of an elector: Provided, That the sons of persons qualified as aforesaid, between the ages of twenty-one and twenty-two years, shall be entitled to vote, although they shall not have paid taxes.<sup>4</sup>

Put simply, the suffrage clause could be read either way, depending on *who* was doing the interpretation. Faced with this legal ambiguity, Pennsylvania blacks seldom agitated for voting rights between 1790 and 1837. First of all, many were unsure of what the state constitution said. Some knew intuitively that the Commonwealth did not “encourage” blacks to vote and resigned themselves to this. Others, such as James Forten, however, were defiant and strove to participate in politics in other ways. James Forten Sr. (1766-1842) was a prominent Philadelphia sailmaker who followed his father’s trade. He had served as a powder boy aboard the American ship *Royal Louis* during the Revolution. Returning to civilian life, Forten became an apprentice of his father’s boss, Philadelphia sailmaker Robert Bridges. In 1798 Forten acquired Bridges’ sailmaking firm and inherited his customers as well. Soon he was one of the wealthiest African Americans in Philadelphia; the Fortens were members of the black elite and his employees respected him. One day he saw a politician, Samuel Breck (1771-1862), on a Philadelphia street. Breck recalled in his diary what happened:

A Negro man named Fortune or Forton accosted me in the street by offering his hand to me, which (knowing his respectability) I accepted, when he told me that at my late election to Congress, he had taken 15 white men to vote for me. “In my sail-loft (he is a sailmaker) I have 30 persons at work” said he, ‘and among them are 22 journey men —15 of whom are white, the rest coloured. All the white men went to the poles and voted for you.’”<sup>5</sup>

Breck inferred from Forten’s statement that although he could not vote in person, he could vote “vicariously” through his employees. Yet other Philadelphia blacks did not have this satisfaction as Frenchman Alexis de Toqueville learned from a Philadelphia Quaker, “Mr. Smith,” in 1831. In the notebook of his American visit, Toqueville recalled that “we asked him if the blacks had citizen’s rights? He answered: ‘Yes, in law, but they cannot present themselves at the poll; ‘Why so?’ ‘They would be ill-treated.’ ‘And what happens to the law in that case?’ ‘The Law with us is nothing when it is not supported by public opinion.’”<sup>6</sup> Smith’s response to Tocqueville is interesting because it alludes to at least one occasion on which Philadelphia blacks had been turned away from the ballot box. We do not know precisely when this occurred but it must have been before 1831. Yet the episode apparently drew state-wide attention because even Pittsburghers knew of it. These recollections of Samuel Breck and Alexis de Tocqueville suggest that before 1837 black Philadelphians who attempted to vote encountered opposition from whites. It is likely that for the vast majority of African Americans who were not well off, “the franchise was indeed an elite issue and they were hardly prepared to agitate for voting rights that they could not hope to share.”<sup>7</sup>

## II

In the 1830s, however, events in Pennsylvania should have alerted blacks that their constitutional and civil rights were endangered. Statewide, the number of antislavery groups was on the rise and the fabled network known as the "Underground Railroad" appeared in numerous communities especially those near the Mason-Dixon line.\* In addition, African Americans in Philadelphia had begun in 1830 to host national black conventions. These activities worried white Pennsylvanians. Fear turned to hysteria, however, when the Nat Turner revolt occurred in 1831 in the then-neighboring state of Virginia. Well-planned with an alliance of white abolitionists, the revolt caused Northern and Southern blacks to frighten those who believed Pennsylvania was the next target.

This belief led Franklin Vansant, a white state representative from Philadelphia, to introduce House Bill 446 into the General Assembly on December 17, 1831. The bill proposed "to prohibit [sic] the emigration of negroes and mulattoes in this commonwealth." Vansant warned his colleagues that unless something was done perhaps as many as 123,000 fugitive slaves might cross the Mason-Dixon line. On January 9, 1832, the bill came up for its second reading. It was then that the Pennsylvania legislature contemplated the repeal of the state's fugitive slave acts of 1820 and 1826 in favor of the stricter 1793 federal law. When the bill was debated it was but a short move from discussing barriers against black migration into Pennsylvania to talking of regulating free blacks already living in the state.<sup>8</sup> The legislature required black immigrants to post a bond of \$500. "It was proposed that local officials be required to take a census of all the blacks in their township 'entering thereon the name, complexion, sex, and age of each.' Anyone seeking to move from one county to another would have to present proof of his right of residence in the state."<sup>9</sup>

In 1832 a group of Philadelphia blacks including James Forten Sr., considered by many to be the wealthiest black Philadelphian, sent a memorial or petition to the state legislature, demonstrating that they were taxpayers. The Philadelphians claimed that they collectively paid at least \$2500 annually in taxes and that "many of us by our labor and industry have acquired a little property; and have become freeholders." They argued that those who own property and pay taxes certainly have a right to vote. But the Pennsylvania General Assembly ignored the petition. The legislature instead introduced a bill which would have banned black emigration to Pennsylvania. Although the bill did not pass, it spurred many whites, especially from the southern counties of Franklin and Cumberland, to send in anti-black petitions.<sup>10</sup>

The growing prosperity of some black Philadelphians was not overlooked by the city's lower class. To some European immigrants in Philadelphia, the Southwark neighborhood, to use a racially derisive expression, was the home

of the “nigger rich” or upwardly mobile African American. In reality, however, as historian Emma Lapsansky contends, “a great majority of black households had no real property and only negligible personal property, the wealthiest tenth of the population controlled 70 percent of the community’s wealth.”<sup>11</sup> Although the black community in 1830 Philadelphia constituted only 15,000, or less than one-tenth of the total city population, compared to others in America, it was “economically well off.” The reputation of Philadelphia’s African Americans gave rise to the erroneous perception that they were better off than they really were which caused resentment among elements of the white community.

Racial tension flared into full-scale violence in Philadelphia in 1834. The chain of incidents leading up to the riot apparently lay in not only the economic competition but social competition between African Americans and whites who were members of one of Philadelphia’s volunteer firemen companies. The latter were notorious for their political patronage and connections with violent gangs. On the evening of August 8, 1834, “a group of Negroes, who were known to frequent the Flying Horses [an entertainment establishment], attacked members of the Fairmount Engine Company and captured some of their equipment.” This action so outraged the volunteer firemen that some swore revenge against the blacks. The next evening, August 9, James Forten Jr. was assaulted “by a gang of fifty or sixty young men in blue jackets and trousers, and low-crowned straw hats.”<sup>12</sup> From newspaper accounts, it is not clear whether the attack on Forten was premeditated or coincidental. Because of their social standing in Philadelphia, the Fortens may have been targeted. James Forten Sr. was thought to be “ambitious ...and strove for a respectable platform for [his family]; and to this end it was said of him that he coveted to wed his daughter to a whiter species at some sacrifice to his fortune.”<sup>13</sup>

We know, however, for certain that street gang members planned to attack the Flying Horses building on Monday August 11. Edward S. Abdy recorded in his diary that a gang leader was overheard to say “We will then attack the niggers.”<sup>14</sup> On Monday there was a confrontation between white youths and blacks in which blacks successfully fought off their attackers. Not to be outdone, the whites returned on the following night, Tuesday, August 12, 1834. The competition between rival groups escalated into three nights of rioting. It started on South Street where the mob destroyed the Flying Horses. After this the rioting spread outside the city limits to the neighboring community of Moyamensing. When the rioting ended, one African American was dead, scores were injured, and the damage from looting of two black churches and numerous homes amounted to about \$4000.<sup>15</sup> Historian John Runcie contends that the 1834 Philadelphia rioting was not at all random in nature:

Their main target was property rather than persons, and there is some proof that certain types of property were preferred: Negro churches,

the homes of "Negroes of property and substance," racially integrated establishments like the "Flying Horses," and Cox's "Diving Bell" which was white owned, but described as "the veriest brothel in the country."<sup>16</sup>

Lapsansky observes that the targets of violence were symbols of African American group success: "churches, meeting halls, outstanding black leaders? property." This was true of all five anti-black Philadelphia riots between 1834 and 1849.<sup>17</sup>

A second Philadelphia race riot in August, 1835, came on the eve of the Commonwealth's preparation for a new constitutional convention. This civil disturbance occurred after

an attempt to murder a gentleman was made by a half-witted Negro. Immediately the public mind became much excited, and in spite of efforts to preserve order, a huge mob collected and rioted through the streets. Everywhere the Negroes fled, such as were overtaken being shamefully beaten. A row of Negro houses was attacked, and one being set on fire the firemen were not allowed to come near it. As showing the temper of the people, it was said that many respectable citizens swelled the crowd of spectators, while the inactivity of the police was a matter of comment?<sup>18</sup>

The fall of 1835 brought gubernatorial elections in which the coalition of Whigs and Anti-Masons triumphed. Joseph Ritner was elected Pennsylvania's first Anti-Mason governor. At the same time, voters somewhat paradoxically approved a call for a constitutional convention in 1837, which lower-class white Pennsylvanians wanted to extend the franchise. Once in power, though, the Whig-Antimason coalition wasted no time in pushing through the legislature their own, rather contradictory election reforms. They enacted "a special election law for the city of Philadelphia, which required an annual registration of voters. Whigs hailed its passage as a curb upon voting frauds in the populous Irish centers of Southwark and Kensington. But Democrats denounced it as a deliberate attempt to deprive the workingman of a vote. They charged that it would operate unequally, that the loss of time and expense would be of little moment to the rich but oppressive to the laborer."<sup>19</sup>

By 1837, James Forten Sr. was becoming increasingly frustrated about his lack of political empowerment. He thought he should be able to vote in an upcoming fall election. On March 15, 1837, he got Daniel Brewton to testify before Philadelphia aldermen about how he had served with Forten in the Revolutionary War. Forten thought that since he had been allowed to fight for his country he was therefore a citizen and thus qualified to vote. He may have learned from his-son-in-law Robert Purvis, who lived in Bucks County, that

black folks did vote up there. Historian Julie Winch suggests that this hearing was intended to lay the legal groundwork for a lawsuit by James Forten for the right to vote.<sup>20</sup>

### III

Pittsburgh's African American community by 1837 was demanding political rights just like the Philadelphians. By the time of the American Revolutionary War a tiny community of free African Americans had begun to evolve at the junction of the Ohio, Allegheny, and Monongohela Rivers. They eventually called it "Hayti" after the recently independent Caribbean nation, but the neighborhood is today familiar as the lower Hill district of Pittsburgh.<sup>21</sup> Two of the pivotal figures in black Pittsburgh were John Peck and John B. Vashon. They were both barbers originally from Carlisle who settled in Pittsburgh around the early 1830s.<sup>22</sup> Peck and Vashon were befriended by the Reverend Lewis B. Woodson, pastor of Pittsburgh's AME Bethel Church. Together the trio played an important role in the formation of cultural and political institutions in Pittsburgh.

In 1832, in the cellar of Woodson's church, Peck, Vashon, and other blacks founded the African Education Society, a school for blacks. Woodson was its first teacher and Vashon was president of the school board. One of the school's students was Martin Delany, who later made a name for himself as a Civil War officer and a pan-Africanist. Delany was undoubtedly influenced by Peck and Vashon, who were active in the anti-slavery movement. Peck ran an oyster house in Pittsburgh which was also a station on the Underground Railroad.<sup>23</sup> The re-establishment of the Pittsburgh Colonization Society in 1832 made Woodson, Peck, and Vashon even more committed to abolitionists. They were agents for William Lloyd Garrison's newspaper the *Liberator* and their letters to Garrison were often published. In a letter dated March, 1832, John B. Vashon condemned the Pittsburgh Colonization Society for trying to banish the African American from his native land. It was madness, said Vashon, "to induce..the African [American] to forsake this soil which has enriched with his labor and watered with his tears." <sup>24</sup>

While they valued the alliance of white abolitionists like Garrison, Vashon and Peck agreed with their peers in Philadelphia about the need for blacks to unite in order to resolve issues facing their own community. Vashon, Lewis Gardiner, and Abraham Lewis served as Pittsburgh delegates to the "First Annual Convention of the People of Colour" in Philadelphia on June 6, 1831. Peck attended the conference as a Carlisle representative. But the Philadelphians dominated both the convention's board of officers and its agenda. That agenda included criticism of the American Colonization Society and discussion of possible black emigration to Canada. The following year a second meeting in Philadelphia was held in which Pittsburgh delegates played a more active

role. Vashon was named second vice president. Peck and Vashon argued against a motion to endorse the purchase of Canadian real estate for black settlers. They feared that such an endorsement would be seen as a call for blacks to renounce their American citizenship. The Convention agreed with Peck and Vashon, resolving that the Canadian proposal be given further study. When the convention ended, the delegates voted to meet again in 1833 in Philadelphia.<sup>25</sup>

But Pittsburghers did not attend that convention nor the meetings in 1834 or 1835. The absence of Pittsburgh from the national black conferences in Philadelphia and New York seemed to have involved geographical as well as ideological distance. It is likely that Pittsburghers resented being dominated by Philadelphians and New Yorkers.<sup>26</sup> During their political hiatus, Pittsburgh blacks turned inward. In 1837 they founded a temperance group known as the Pittsburgh Moral Reform Society. It boasted over 170 members. John Vashon was treasurer and Lewis Woodson served as the society's corresponding secretary. The society believed that self-improvement of the individual would lead to self-improvement of the race. Black ministers preached that "to keep sober was to strike a blow at slavery." Recruitment tactics of groups like the Pittsburgh Moral Reform Society raised suspicions among some Americans that "a supporter of abolition was likely to be a supporter of temperance."<sup>27</sup>

State politicians seized upon black political activism for their own purposes. The Democrats, catering to the pro-southern and urban working-class elements in Pennsylvania, linked the Anti-Masonic Party with abolition. It was no coincidence, they said, that two of Pennsylvania's most influential abolitionist politicians in the 1830s including Pennsylvania Governor Joseph Ritner (1780-1869), were members of the Anti-Masonic-Whig coalition.<sup>28</sup> In his annual message to the state legislature on December 6, 1836, Governor Ritner came out as an abolitionist and praised Pennsylvania for abolishing slavery. He said: "Not only has Pennsylvania thus expelled the evil from her own borders, but she has on all proper occasions, endeavored to guard her younger sisters from the pollution."<sup>29</sup> Ritner then cited a resolution passed by the General Assembly requesting that Pennsylvania congressmen vote for the abolition of slavery in the District of Columbia. Another strong Pennsylvania advocate of abolition was state representative Thaddeus Stevens from Adams County. To be sure, not all Anti-Masons were abolitionists nor were all abolitionists AntiMasons. Yet it seems that at least some Pennsylvania Democrats tried to convince the public that Anti-Masonism and abolition were the same. The Democrats, a minority in both the General Assembly and the constitutional convention, cast about for a way to make a political comeback in statewide elections in the fall of 1837.

## IV

This partisan fight for power took place against the background of an economic depression. In Philadelphia, with a large immigrant population, the depression of 1837 heightened the economic competition between ethnic, racial and religious groups. The disadvantaged began to regard the right to vote as a symbol of social status and superiority, which only added to the pressure on politicians to change the state constitution. In the spring and early summer of 1837, thirty-three state senators and one hundred state representatives met in Harrisburg to draft a new Pennsylvania constitution. The constitutional convention then reconvened in Philadelphia that fall before adjourning during January, 1838. Yet the convention's agenda dealt with far more than the franchise issue; it included amendments to Pennsylvania's constitution dealing with limiting the governor's power, limiting tenure of judges, requiring an oath of allegiance to the American constitution for state officials, regulation of banks, and extension of the franchise.

To appreciate the dynamics behind the 1837-38 constitutional convention we must take a look at the *original* proposed constitutional amendment on the franchise. Article Three of the 1837 constitutional convention advocated changes in the tax and residency qualifications for voters. On May 17, the committee on Article Three made its recommendation, proposing that "in elections by the citizens, every freeman of the age 21 years and upward who has resided in the state one year preceding such election shall be entitled to vote in the county or district in which he shall reside."<sup>30</sup> The report made no reference to race at this time. The proposed suffrage amendment was debated on June 19, 1837. Allegheny County delegate H. G. Rogers opened the discussion: "If it is in my power," he said, "I would found this Government upon two broad and enduring pillars — universal suffrage and general education. While I would concede one as an estimable right, I advocate the other as a measure of incalculable good."<sup>31</sup> The debate began to focus upon nomenclature, specifically the meaning of the word "freeman." It is likely that Pennsylvania African Americans understood "freeman" to be anybody who was neither a slave nor a servant and who met all voter qualifications. Other Pennsylvanians, however, had a different definition. For Democrat John Sterigere of Montgomery County, freedom from bondage and ability to claim residence and taxpayer status were necessary but not sufficient conditions for voting. Sterigere proposed "to insert the word 'white' in the constitutional phrase 'every freeman of the age of twenty-one,' who had the other qualifications, should have the right to vote. This initial proposal failed through the efforts of the Whigs and Anti-Masons, aided by a few Democrats."<sup>32</sup> One of the Democrats was Phineas Jenks of Bucks County. Jenks said that since there were wealthy black property owners living in Bucks County, they were qualified to vote.

But on June 21, another Bucks County delegate, E. T. McDowell, raised the spectre of widespread black voting if taxpaying qualifications were lifted. He thereby initiated the debate that ultimately led to black disfranchisement. He contended that there was no legal way to prevent Negroes from voting under the present constitution, as they were human beings and not baboons as some contended. A free Negro born in Pennsylvania and 21 years of age, was a freeman, a citizen, and entitled to vote. Though not denying the rights of blacks to vote under the present constitution if they were assessed and paid their taxes, McDowell went on to note that few colored men exercised this right of suffrage because they were restrained by public opinion and widespread prejudice. However, if the committee reports were adopted, "all the Negroes in the Commonwealth would be turned loose . . . on election days, five thousand in Philadelphia alone."

McDowell's argument excited his fellow Bucks County citizens over black suffrage. Many were outraged by their other delegates' remarks. Two days before the convention adjourned for the summer, the *Doylestown Democrat* began to print letters condemning the three of the four Bucks County delegates who advocated black suffrage. It was madness in effect to invite hundreds of thousands of freed blacks into the state where ex-slaves, if considered the equal of whites, might subsequently control county politics by voting. Moreover, some argued that fugitive slave voters had caused the recent defeats of the county Democratic Party. Several newspapers predicted "impeding doom" if blacks voted again in Bucks County.<sup>33</sup>

Meanwhile, word of Sterigere's proposal to disenfranchise African Americans reached Pittsburgh blacks, the first in the state to oppose it. They met on June 13, 1837, and selected a committee — John B. Vashon of Pittsburgh, Joseph Mahonney of Allegheny, Samuel Ranyolds of Pittsburgh, Thomas Knox of Arthursville, and Lewis Woodson of Pittsburgh — to draft a memorial to the convention. On June 19, the committee recommended that a report on the moral, social and political condition of the colored citizens of Pittsburgh be submitted with the formal memorial or petition.<sup>34</sup>

The *Pittsburgh Memorial* appealed both to logic and the moral conscience of the convention delegates. It argued that Pennsylvania had already extended the rights and obligations of taxpayers and freemen to African Americans, provided that they prove themselves worthy or "qualified." The document went on to emphasize that Pittsburgh blacks were progressive, of good character, paid property and poll taxes, and owned real estate. Meeting all the requirement of freemen or electors, blacks are entitled to vote.

On July 1, 1837, Vashon and Woodson attended the constitutional convention as Pittsburgh "observers."<sup>35</sup> Allegheny County Democratic Senator Harmar Denny presented the *Pittsburgh Memorial* to the constitutional convention. Denny moved that the memorial be referred to the committee on

Article Three [concerning suffrage] and that a report attached to the memorial which described the status of black Pittsburgh be read. Charles Ingersoll of Philadelphia argued that black Pittsburghers should not send memorials to Harrisburg but instruct their elected officials on how to vote for legislation. Walter Forward of Pittsburgh rebutted Ingersoll, claiming that all citizens have the right to petition the government. Numerous delegates expressed anger that black Pennsylvanians should dare to claim suffrage as a right. When it came time for a vote, a majority of delegates refused to allow the *Pittsburgh Memorial* to be referred to the standing committee on suffrage for discussion or even for it to be printed as part of the convention proceedings. The Pittsburghers had, however, won a victory in that they may have influenced the constitutional convention not to insert the word “white” before “freeman.”<sup>36</sup> This was the situation when the convention adjourned in the summer of 1837.

Blacks had narrowly maintained their theoretical right to the ballot box. But what opponents of that right alleged to be an effective African-American presence at the polling places that fall may have paradoxically doomed black enfranchisement. On October 10, 1837, an election to fill six county offices was held in Bucks County: three state assembly seats and three local posts. When the final results were counted, the Anti-Mason/Whig or “Anti-Van Buren” candidates defeated all but one of the Democratic candidates. The race was extremely close; a Democrat running for county auditor, Dr. F. L. Boder, lost by just two votes and other Democrats also lost by slim margins.<sup>37</sup> The Anti-Van Burenites, supporters of William Henry Harrison and Pennsylvania Governor Joseph Ritner, were both members of the Anti-Masonic Party. Bucks County Democrats contested the results, alleging that they lost only because of “illegal” black votes,<sup>38</sup> that twenty-four blacks from Middletown and another fifteen from the communities Falls, Bristol, and Buckingham had cast decisive ballots. The *Doylestown Democrat* published the names of the alleged black voters and stressed that this was not the first time blacks had voted in Bucks County.<sup>39</sup>

But it is unclear as to how the Democrats came up with these specific names, whether they met voter qualifications, and even if they *actually* voted on October 10. The Democrats were correct in asking for an election recount in so close an election, but they appealed to prejudice in arguing that the “swing” votes were those of “illegal” African Americans. Eight days after the elections, General John S. Bryan, editor of the *Doylestown Democrat*, predicted a race war if blacks continued to vote:

[On October 10] a number of negroes [sic] came to the polls with guns, and one of them said he had a gun loaded, and would have shot had he been molested in voting. Is such conduct of negroes [sic] to be tolerated? Whoever heard of any white man going to the polls with

his gun loaded, in order to shoot any person who should question his right to vote? Tolerate such inducements and protection to runaways [fugitive slaves], and harbor them in the lower end of Bucks, and they will make the very streets run with white man's blood. Can and will the free and independent voter of any party sanction such inference?<sup>40</sup>

Many white Bucks County voters said no. On October 21, 1837, the first of three county meetings was held in Bucks County. The meeting at Harris' White Bear Tavern in Northhampton Township was for the purpose of proposing "...such measures as would effectually check Negro voting in the country."<sup>41</sup> At least thirty people, including government officials and local attorneys, attended the meeting. General John Davis was chosen to preside; with a general in command, the group drew up a battle plan to draft persuasive memorials to be delivered to the state legislature, the constitutional convention, and the county court. In this way the entire state government would be employed to disenfranchise African Americans. The meeting then discussed the recent county election and resolved that the elections of state assemblyman Aaron Ivins, commissioner Abraham Fretz, and accounts auditor Richard Moore were "governed and controlled by a large body of [illegal] Negro voters."

County residents cited the editor of the *Doylestown Democrat* who claimed that black voters bullied their way to the polls with guns. No specific names were given of blacks who threatened voters. It did not matter, as someone later pointed out, that election day was also the first day of the hunting season in Bucks County; hence some voters may have brought rifles with them to the polling place with the intention of hunting deer after voting. In accusing blacks of carrying firearms, some citizens seemed to allude to Pennsylvania's infamous Black Codes of colonial days which had banned this. It did not matter to them that the Black Codes had long since been repealed. Black voting was all the fault of the abolitionists, others said. That notorious abolitionist Burleigh had started it all with his denunciation of African colonialization and support of black freemen's rights all over Bucks County. After selecting a committee of twenty-one to write the resolutions to stop illegal black voting, and calling for a general meeting in December at the county courthouse in Doylestown, the Democrats adjourned.<sup>42</sup>

Some whites did not wait that long. A week later on October 28, a second meeting of Bucks County citizens was held at Buck's Tavern in Nockamixon. About six hundred people discussed the resolutions and the memorials drawn up since the last meeting. Many were German farmers and mechanics "who had not attended any public meeting for years, who declared that they were as ready now to maintain and defend their sacred rights, as they were [during the Revolutionary War]. Every German township was represented."<sup>43</sup> So many people were present that the meeting was moved from the tavern to a large

open field nearby. The citizens unanimously approved resolutions opposing Negro voters, British influence, abolition, and to contest the previous election. It mattered little, as Benjamin Lundy (1789-1839), editor of the abolitionist newspaper *The Genius of Universal Emancipation*, charged that the Bucks County election inspector was a racist and thus significant black voting was most unlikely. Lundy contended: "When the voters were called out to select, viva voce, the judges for the general election, the voice of our *President Judge* was heard abov' And, again, when both parties were drawn out, in their respective lines, he was heard to address his political opponents in such language as this: 'Nigger voters! stand in your ranks, or you'll not be counted.' This is a specimen of his outrageous conduct on that occasion."<sup>44</sup> While Bucks County citizens sent anti-black suffrage memorials to the constitutional convention which had reconvened in Philadelphia, the Democrats filed a court suit to overturn the results of the October election.

## V

Bucks County judge John Fox was perhaps aware of the public hysteria rounding the case. But in his court decision, Fox all but ignored the racism factor. The particulars of the case were as follows: On October 10, 1837, in the Bucks County election race for county commissioner, Abraham Fretz had 3286 votes and Jacob Kachline had 3261 votes. Perhaps quoting the plaintiff's testimony, Fox noted that "between 30 and 40 votes were given by Negroes, who had no right to vote, and that this number is greater than the majority which the said Fretz had over Jacob Kachline."<sup>45</sup> In effect, the plaintiff was asking the court to decide whether illegal (i.e. black) votes were cast in the election. But first, said Fox, it was necessary to determine if African Americans had the right of suffrage.

Fox reviewed a number of documents in preparing his legal opinion, turning first to the earliest Pennsylvania colonial constitution. There he found that the interpretation of black suffrage turned upon the definition of the words *citizen* and *freeman*. Fox said that in colonial Pennsylvania a "free Negro" was not legally regarded as a "freeman," since the former had no political rights while the latter enjoyed constitutional privileges. "It is thus plain," said Fox, "that a free Negro was not a freeman as it was understood by the provincial law-makers, William Penn and his associates."<sup>46</sup> Then Fox examined the 1776 state constitution which was framed while slavery was still in effect. This document stated that "Negroes, bond or free, were not considered by the framers of the constitution as being *born free*, or as having any inalienable rights." In fact, said Fox, the 1776 constitution paid no attention to the rights of blacks at all. It had been erroneously thought that when a large number of blacks were freed due to the passage of the Gradual Abolition Act of 1780, it created black freemen. In fact, said Fox, the law simply abolished slavery but

conferred no political rights on free blacks; only the constitution could do that, and the Pennsylvania constitution of 1790 reflected no change in the legal status of blacks.<sup>47</sup>

Next Fox discussed the meaning of "freeman" as applied to African Americans. We must understand that the Pennsylvania constitution-makers "had in view the constitution of the United States. They adhered to it as closely as the differences of circumstances would admit."<sup>48</sup> Article Four, Section Two of the United States Constitution proclaimed that "the citizens of each state shall be entitled to all privileges and immunities of citizens in the several states." It was ludicrous to suppose, said Fox, that Southerners would endorse a federal constitution under which "a free negro of another state would have the right to pass into a slave-holding state, and there be entitled to all the privileges and immunities of a [white] citizen there." Fox said that the constitutional clause: "the people shall bear arms &c." was certainly not written with African Americans in mind. The 1780 naturalization law explicitly reserved "the right to become a citizen to FREE WHITE PERSONS."<sup>49</sup> All of these examples, said Fox, proved conclusively that the federal constitution did not include African Americans within the definition of "people," "citizen," or "freemen."

Since Pennsylvania's constitution was modeled after the federal one, black people were likewise excluded from state citizenship. Fox also argued that blacks were inherently inferior: "their color continually recalls their former condition, and connects them with the rest of the race in servitude, while it produces a marked distinction between them and their former masters." Against the oft-quoted phrase from the Declaration of Independence that "all men are created equal," Fox contended that the writers of those words were residents of slave-holding states, including Pennsylvania, and therefore did not consider blacks to be men. Finally, Fox appealed to law and custom in arguing against black suffrage; in most counties African Americans were banned from the polls.<sup>50</sup> Thus Judge Fox found no evidence that black Pennsylvanians had possessed the "chartered or constitutional rights" of suffrage. The Bucks County election results should be revised to show Democratic victories. Meanwhile, Democratic constitutional convention delegates gleefully quoted Judge Fox's decision in their arguments against black suffrage.

## VI

While state lawmakers and judges sought to justify black disenfranchisement, African Americans worked feverishly to keep their voting rights. Although the *Gardner-Hinton Memorial* was drawn up by black Philadelphians as early as June 5, 1837, it was not until January 6, 1838, that James Biddle, a Philadelphia Whig, presented it to the constitutional convention.<sup>51</sup> Like the other black memorials, it relied upon the "theory of

right" suffrage doctrine. But the *Gardner-Hinton Memorial* had a different tone than the earlier *Pittsburgh Memorial* and the later *Appeal of Forty Thousand Citizens*. Historian David McBride explains that the documents were intended for different purposes:

Whereas the Appeal was designed to dissuade Pennsylvania voters from ratifying the anti-black suffrage amendment, the Gardner-Hinton Memorial had been framed to be read by the Commonwealth politicians. Thus a major point of difference between the two statements is that the former attempted to give a relatively in-depth explanation to white citizens on the plight and goodwill of Pennsylvania blacks. It also evinced a distrust for the state's political body which they believed aided the pro-slavery forces. On the other hand, the Gardner-Hinton Memorial entreated the Convention members not to . . . intensify in the already vigorous "popular prejudice."<sup>52</sup>

On January 20, 1838, the constitutional convention held final debates on Article Three before voting on Benjamin Martin's proposal to restrict Pennsylvania suffrage to "white freemen" only. Thomas Earle of Philadelphia County and George Woodward of Luzerne County argued against the amendment; Woodward said: "Negroes were freemen and citizens--that they have been claimed as such by the American government when impressed as seamen on board of foreign vessels--and he held in his hand a passport, signed by John Forsyth, Secretary of State of the United States, certifying that a black man who was about to travel in Europe, is a free citizen."<sup>53</sup> William Darlington of Chester County said that very few states mentioned American citizenship as a criterion for voting but many had constitutions which prohibited African Americans from voting. Louisiana had led the way with an 1812 constitution which required payment of taxes or the purchase of land in the United States in the past year, one year residency in a county, *and* being a white male. In 1819 Alabama joined the Union with a constitution prohibiting black suffrage. Furthermore, by 1838 Pennsylvania was surrounded by neighbors whose constitutions disenfranchised blacks: Delaware did so in 1792, Maryland in 1809, Ohio in 1817 and New Jersey in 1820. New York State did away with property test for white males but retained it for black males. For New York, "although property, either real or person, was no correct test of qualification in the case of a white man, it was a very good one in that of a black man."<sup>54</sup>

The impact of Darlington's remarks caused the delegates as well as the blacks present to realize that the new voting requirement was, in fact, a political move to bring Pennsylvania into line with her sister states. While Darlington was speaking, a disturbance broke out in the gallery, in the area where Pittsburgh

African Americans John Vashon, Lewis Woodson, and others were seated. The *Pittsburgh Gazette* reported: "The assistant sergeant at arms denied admittance to the gallery to several Negroes—and the officers had this morning removed one or two from the gallery."<sup>55</sup> The *National Inquirer and Constitutional Advocate* identified the men as John B. Barr, Thomas Butler, and James Forten Jr. "In each case the colored person above mentioned made no resistance to the commission of the outrage, though physical force was brutally applied in their ejection."<sup>56</sup> Forten issued a complaint against the doorkeeper. But convention officials insisted they had not banned anyone from the gallery. They apologized that the doorkeeper 'exercised his own discretion' rather than asking them for permission to forcibly remove the blacks.<sup>57</sup> Finally, after about ten hours of debate, the amendment to disfranchise passed 77-45. Eleventh hour amendments to save black suffrage were offered by delegates Scott and Dunlop. Scott's amendment proposed that after 1860, the Legislature have the option to reinstate black suffrage. Dunlop's amendment stipulated that only qualified black voters be allowed to vote. Both failed.<sup>58</sup> It was next up to the people of Pennsylvania to ratify a new constitution in which blacks would be definitely disenfranchised.

Between adoption and ratification of the new constitution, however, Chief Justice Gibson of the Pennsylvania Supreme Court handed down the court's ruling in the case of *Hobbs v. Fogg*. The principals were black property owner and taxpayer, William Fogg, and Luzerne County elections inspector Hiram Hobbs. In October, 1835, Fogg had tried to vote in a county election but Hobbs turned him away. Fogg then appealed to the county court of appeals: Judge David Scott ruled in his favor, proclaiming that neither the federal nor state constitution forbade blacks from voting. Hobbs then appealed to the state supreme court, the first time the question of African-American suffrage came before that body.

The court overturned Scott, denying his claim that "A Negro is a man; and, when not held to involuntary service, that he is free, consequently he is a freeman, and if a freeman in every acceptance of it."<sup>59</sup> Justice Gibson said that argument was fallacious because it assumed that the term "freedom" simply meant freedom from bondage and ignored the more specific legal definition found in old English law. There a "freeman" was thought to have owned land, paid taxes, and was thus eligible to vote."<sup>60</sup> One could be free from bondage and yet not be a freeman "politically."

Gibson's ruling, however, failed to refute the *Pittsburgh Memorial* that there were free black property owners and taxpayers in the state who were thus entitled to vote. So the court fell back on some of the same arguments that Bucks County Judge Fox offered: that regardless of income, property, or tax bracket, the African American was inferior and not entitled to vote. Thus the court decided that the "the good of the state" rather than the "theory of right"

was the decisive legal basis for determining voter qualification in Pennsylvania. Justice Gibson declared that because blacks were inherently inferior they could be excluded from the political process. The timing of the court's decision after the end of the constitutional convention made its impact anti-climatic but still painful for African Americans. It is likely that the delayed decision of the state court was deliberate, since it wished to respect the separation of legislative and judicial powers and not directly influence the amendment of Article Three.<sup>61</sup>

## VII

A shock wave ran through the Pittsburgh black community. Many could not find words to describe how the unthinkable happened in Pennsylvania. The *Pittsburgh Gazette* undoubtedly spoke for many when it expressed deep regret over the amendment: "We can really not see the justice of excluding native born freemen of this commonwealth from this privilege, merely because their skins are a little darker than of some of their neighbors."<sup>62</sup> African Americans in Philadelphia were also angry because the constitutional convention had taken place under their very noses. In particular, the Forten family probably reminisced about how much the family had gone through: how James Jr. had been attacked by rioters in 1834 and evicted from the 1837 convention and how James Sr. had been barred from voting despite his great wealth.

On January 24, 1838, the Fortens joined Robert Purvis and other black Philadelphians in writing a protest document known as *The Appeal of Forty Thousand Citizens*.<sup>63</sup> This document argued from the 'theory of right' that blacks were entitled to vote. Whereas the *Pittsburgh Memorial* and the *Hinton-Gardner Memorial* relied upon mere recitation of black achievement, the *Appeal* was legalistic. It challenged those who disenfranchised blacks by "the good of the state" doctrine, and demanded to know what blacks had done to warrant such treatment. Unfortunately, this appeal did little to change voters' minds. In October, 1838, by a slim margin (113,971 to 112,759) the voters approved the new constitution.<sup>64</sup> Had even taxpaying or property-owning African-Americans been permitted to vote, they would have retained the franchise at least in theory. But it was now official: only white males could vote in Pennsylvania.

Sometime in 1838, perhaps after the new Pennsylvania constitution was ratified, James Forten had a change of heart. Historian Julie Winch tells us that: "In 1822, Forten had seen no reason to fight a court case, since he could exercise his authority over his white workers and ensure that they voted as he instructed them. In 1838, when Forten finally did seek voting rights for himself, he discovered that, in the eyes of the court, his white employees were entitled to vote, but he was not."<sup>65</sup> Unfortunately there is no extant court record of

the Forten case; we only have a contemporary account. Englishman Frederick Marryat, who visited Philadelphia in 1838:

A coloured man by the name of James Fortin [*sic*] who was . . . a sailmaker by profession, [and] at all events a person not only of the highest respectability, but said to be worth 150,000 dollars, appealed because he was not permitted to vote at elections, and claimed his right as a free citizen. The verdict, a very lengthy one, was given against him. . . . Forten, although not considered white enough to *vote* as a citizen, always been considered quite white enough to be *taxed* as one."<sup>66</sup>

Disenfranchisement, although depressing for Pennsylvania's black community, spurred it into action. Robert Purvis continued his leadership in Philadelphia's African-American community. James Forten, Sr. passed the struggle on to his children, James Forten Jr. and Charlotte Forten Grimke.<sup>67</sup> In Pittsburgh the Vashon family reaffirmed their commitment to equal rights; John Vashon's son George, emerged as an African American leader.<sup>68</sup> George, John Peck, and others met in Pittsburgh's Bethel Church on Front Street in January, 1841. Out of that meeting was born the first state convention of African Americans in Pennsylvania, which convened in Pittsburgh August 23-25, 1841. Although the Philadelphians did not attend, they knew as well as Pittsburghers that African Americans could no longer take freedom for granted in Pennsylvania.<sup>69</sup>

## Notes

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2. Kirk H. Porter, *A History of Suffrage in the United States*: (New York: Greenwood Press, 1918) 89.
3. Roy Akari, "The Pennsylvania Constitutional Convention of 1837-1838" *Pennsylvania Magazine of History and Biography* 48 (1924) 301-333. Lyle L. Rosenberger, "Black Suffrage in Bucks County: The Election of 1837," *Bucks County Historical Society Journal* (Spring 1974), 28-29; Julie Winch, *Philadelphia's Black Elite: Activism, Accommodation, and the Struggle for Autonomy, 1787-1848* (Philadelphia: Temple University Press, 1988).
4. Pennsylvania Constitution of 1790 in *Pennsylvania Archives*.
5. Nicholas B. N. Wainwright, ed., "The Diary of Samuel Breck, 1814-1822," *Pennsylvania Magazine of History and Biography* 102 (October 1978), 505.
6. Alexis de Tocqueville, *Journey to America*. Translated by George Lawrence and edited by J. P. Mayer. (New Haven: Yale University Press, 1960), 224-225.
7. Winch, 135.
8. Winch, 132.
9. Winch, 133; *Journal of the Senate of the Commonwealth of Pennsylvania, 1831-1832* (Harrisburg: Printed by Henry Welsh, 1831-1832) 287.
10. Winch, 133; *Journal of the Forty-second House of Representatives of the Commonwealth of Pennsylvania, Vol. 1* (Harrisburg: Printed by John Welsh, 1831-1832), 48; *Journal of the Forty-third House of Representatives of the Commonwealth of Pennsylvania*. Vol. 1 (Harrisburg: Printed by Henry Welsh, 1832-1833), 23, 87, 91, 100, 127, 136, 144, 150, 158, 186, 200, 261, 275, 372, 428, 645.
11. Emma Jones Lapsansky, "'Since They Got Those Separate Churches': Afro-Americans and Racism in Jacksonian Philadelphia," *American Quarterly* 32 (March 1980), 57.
12. John Runcie, "'Hunting the Nigs' in Philadelphia: The Race Riot of August 1834," *Pennsylvania History* 39 (April 1972) 191.
13. Lapsansky, 6; Abraham Ritter, *Philadelphia and Her Merchants* (Philadelphia: Published by the author, 1860), 47-48.
14. Runcie, 191-2; Edward S. Abdy, *Journal of a Residence and Tour in the United States of North America* 3 vols (London: J. Muhay, 1837), Vol. 3, 319-329-30.
15. Runcie, 190.
16. Runcie, 209.
17. Lapsansky, 75.
18. Turner, 161-162; *Philadelphia Gazette*, July 13-18, 1835; Winch, 61, 209.
19. Snyder, 74; *The Pennsylvanian* (Philadelphia) May, 20, 1836; *Philadelphia American Sentinel*, April 23, 1836.
20. Tocqueville, 224-225.
21. Ernest J. Wright, "The Negro in Pittsburgh," in RG 13, *Records of the WPA, Pennsylvania Survey, Ethnic Survey*, Pennsylvania State Archives; *Beyond Adversity: African-Americans Struggle for Equality in Western Pennsylvania, 1750-1990*, (Pittsburgh: Museum Program Division, Historical Society of Pennsylvania, 1993), 3.
22. Obituary of John B. Vashon, *The Liberator*, January 20, 1854.
23. *Beyond Adversity*, pp. 4-5.
24. Vashon to Garrison, c. March 1832, letter published in *The Liberator*, cited in Wright, "The Negro in Pittsburgh," 12-13.
25. "Minutes and Proceedings of the First Annual Convention of the People of Colour Held by Adjournments in the City of Philadelphia From the Sixth to the Eleventh of June, Inclusive 1831" (Philadelphia: 1831). In: Howard Bell ed. *Minutes of the Proceedings of the National Negro Conventions, 1830-1864*, (New York: New York Times and the Arno Press, 1969) pp. 5,8; "Minutes and Proceedings of the Second Annual Conference for the Improvement of the Free People of Colour in

- these United States Held by Adjournments in the City of Philadelphia from the 4th to the 13th of June, Inclusive 1832," in Bell, 2-35.
26. Black Pittsburghers are conspicuously absent from the delegate lists of the 1833, 1834, and 1835 conventions listed in Bell; *Colored American* (New York) May 13, 1837, 1, July 10, 1841, 1, August 7, 1841, 1. Laurence Glasco, "Educational, Social, and Cultural Institutions and Achievements," in *African American Historic Sites Survey of Allegheny County* (Harrisburg: Pennsylvania Historical and Museum Commission, 1994), 54.
27. *Colored American*, May 13, 1837, 1; July 10, 1841, 1, August 7, 1841, 1; Glasco, "Educational, Social and Cultural Institutions and Achievements," in *African American Historic Sites Survey of Allegheny County*, 54. Donald S. Lutz, *Popular Consent and Popular Control: Whig Political Theory in the Early State Constitutions*. (Baton Rouge & London: Louisiana State University Press, 1980), 93.
28. Edward W. Biddle, "Governor Joseph Ritner," Address read before the Hamilton Library Association, Carlisle, Pennsylvania, October 17, 1919, 3-4; in the collection of the Cumberland County Historical Society; "Joseph Ritner, 1835-1839" In: Robert Sobel and John Raimo eds. *Biographical Directory of the Governors of the United States, 1789-1978*, 4 vols., (Westport, Ct.: Meckler Books, 1978) Vol. 3, Montana-Pennsylvania, 1302-1303; William C. Armor, *Lives of the Governors of Pennsylvania With the Incidental History of the State, From 1609 to 1873* (Norwich, CT: T. H. Davis & Co., 1874): 361-363, 368.
29. Joseph Ritner, "Governor's Annual Message to the Pennsylvania Assembly, January 16, 1837," *Pennsylvania Archives*, 4th Series. Edited by George Edward Reed, Volume 6, "Papers of the Governors, 1832-1845," (Harrisburg: William Stanley Ray, 1901), 290-291.
30. Robert Mittrick, "A History of Negro Voting in Pennsylvania During the Nineteenth Century," Ph. D. dissertation, Rutgers University, 1985, 22-23.
31. *Proceedings and Debates of the Convention of the Commonwealth of Pennsylvania, To Propose Amendments to the Constitution, Commenced at Harrisburg, on the Second Day of May 1837*, 12 vols. (Harrisburg: Parker, Barrett and Parke, 1837-39), vol. II, 475-476.
32. Henry R. Mueller, *The Whig Party in Pennsylvania*, (New York: Columbia University Press, 1922) 36-37.
33. Lyle L. Rosenberger, "Black Suffrage in Bucks County: The Election of 1837," *Bucks County Historical Society Journal*, (Spring 1974), 28-29.
34. *Pittsburgh Memorial*, RG 5, Pennsylvania State Archives; *Colored American*, June 10, 1837, 3.
35. *National Enquirer and Constitutional Advocate of Universal Liberty* (Philadelphia) July 15, 1837, 1-2.
36. *Ibid.*, 1-2.
37. *The Pennsylvania Reporter*, "Results of the Election," October 13, 1837, 3.
38. Rosenberger, 35, footnote 6.
39. Historian Rosenberger describes that almost none of the sources agree on how many blacks actually voted in 1837 or previous elections. He states there were only 14 blacks voters in Middletown whereas others claimed there were 24. Estimates for previous elections varied from 24 to at least 300. The number of voters probably varied significantly at each election, but the Democrats admitted there were about 500 potential eligibles in Bucks County.
40. *Doylestown Democrat*, Oct. 18, 1837, quoted in Rosenberger, 596.
41. "Great Meeting of the People in Bucks County," *The Pennsylvania Reporter*, Nov. 3, 1837, 2.
42. *The Pennsylvania Reporter*, Nov. 3, 1837, 2; Nov. 18, 1837, 2; Rosenberger, 597.
43. *The Keystone*, "Excitement in Bucks," Nov. 8, 1837, 3.
44. "Political Prejudice," *Genius of Universal Emancipation*, Oct. 1837, 66-67.
45. *Opinion of the Honorable John Fox Against the Exercise of Negro Suffrage in Pennsylvania* (Harrisburg: Packer, Barrett, and Park, 1838), 7 [hereafter cited as Fox].
46. Fox, 4.
47. Fox, 7-8.
48. Fox, 10.
49. Fox, 10-11.
50. Fox, 11-12.
51. McBride, 156.
52. McBride, 156.
53. *Pittsburgh Gazette*, Jan. 25, 1838, 2.
54. *Ibid.*, Dec. 25, 1837; Porter, 38, 53; Marchette Chute, *The First Liberty: A History of the Right to Vote in America, 1619-1850* (New York: E. P. Dutton, 1969), 312.
55. *Pittsburgh Gazette*, Jan. 25, 1838, 2.

56. *National Enquirer and Constitutional Advocate*, Jan. 25, 1838, 78.
57. *Pittsburgh Gazette*, Jan. 25, 1838, 2.
58. *Proceedings and Debates*, Vol. X, 106-107.
59. *Hobbs v. Fogg*, in Frederick Watts, ed., *Reports of Cases Argued and Determined in the Supreme Court of Pennsylvania*, Vol. 6, May-Sept. 1837 (Philadelphia and Pittsburgh: Kay and Co., 1838).
60. *Ibid.*, 558.
61. Turner, 189.
62. *Pittsburgh Gazette*, Jan. 25, 1838, 2.
63. *Appeal of Fort Thousand Citizens*.
64. *Proceedings and Debates*, Vol. XIII, 260-61.
65. Winch, 139.
66. Frederick Marryat, *Diary in America with Remarks on its Institutions*, 3 vols. (London: Longman, et al., 1839), vol. 1, 297. Neither Julie Winch nor I have been able to locate 1837-1838 court records in Philadelphia pertaining to the Forten case.
67. Emma Jones Lapsansky, "Feminism, Freedom, and Community: Charlotte Forten and Women Activists in Nineteenth-Century Philadelphia," *Pennsylvania Magazine of History and Biography*, 113 (January 1989), 3-19.
68. See Catherine M. Hanchett, "George Boyer Vason, 1824-1878: Black Educator, Poet, Fighter for Equal Rights," two part article, *Western Pennsylvania Historical Magazine*, 68 (July 1985), 205-219; (October 1985), 333-349.
69. "Proceedings of the State Convention of the Colored Freeman of Pennsylvania Held in Pittsburgh, on the 23rd, 24th, and 25th of August 1841, For the Purpose of Considering Their Condition, and the Means of Its Improvement," in Philip S. Foner and George E. Walker, eds., *Proceedings of the Black State Conventions, 1840-1865* (Philadelphia: Temple University Press, 1979), 104-117.