53 MINUTE READ

The True Policy for Utah: Servitude, Slavery, and "An Act in Relation to Service"

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The True Policy for Utah: Servitude, Slavery, and “An Act in Relation to Service”

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On February 4, 1852, the first annual session of the Utah Territorial Legislature passed a law entitled "An Act in Relation to Service." Although this statute was little noted outside of Utah, it quietly took part in a dispute which was nudging the United States ever closer toward a bloody civil war. Less than two years earlier, Congress had formally organized the Mormon communities of the Great Basin into a territory under the principle of "Popular Sovereignty."1 Significantly, this permitted the Utah legislature to decide whether or not Utah would allow African slavery within her borders without interference from Washington.

Over the years, many historians have asserted that after receiving this new authority, the Utah Legislature drafted "An Act in Relation to Service" in order to legalize slavery in the territory.2 However, the reality is far more complicated. In fact, if one carefully examines the text of the statute in its proper context, it becomes clear that this legislation did not legalize chattel slavery as it has been alleged. Rather, the act was an attempt to find a practical compromise between three contradictory goals. The first of these goals was to abolish the status of “slave,” meaning a human being who is legally reduced to a chattel, or a piece of personal property. However, the second goal was to honor the property rights of a small number of Southern slaveholders who brought their slaves into Utah while also ensuring that these bondsmen would be subject to the influence and authority of the community at large. Finally, the third goal was to uphold the appearance of neutrality towards slavery in order to strengthen a bid for statehood. In order to accommodate these goals, the law instituted a scheme of quasi-indentured servitude and gradual emancipation for African slaves who immigrated to the territory with their masters. In fashioning this system, the Utah legislature was hardly treading new ground. State legislatures in the northern United States had wrestled with the problem of abolishing chattel slavery while also defending property rights for more than sixty years, and had come up with similar solutions. Indeed, it is evident that the provisions of “An Act in Relation to Service” were largely based upon these northern statutes, particularly those of Indiana and Illinois. Like the practices that developed in these states, Utah’s indenture system was almost certainly a form of “involuntary servitude” despite the legislature’s requirement that African American servants give nominal consent to the arrangement and receive compensation.3

Nevertheless, it remained distinct from chattel slavery and a step forward in the gradual emancipation model.

Photograph of Green Flake, who was born a slave and came to Utah in 1847.

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It should here be noted that this article will necessarily be limited in scope. It is not a social history of African American servants who lived in early Utah, nor is it a full exposition of the complex Mormon attitudes toward those of African descent. Further, it cannot adequately address how Utah's approach toward African slavery was affected by the explosive national events which occurred subsequent to the passage of "An Act in Relation to Service." For instance, the infamous Dred ScottDecision of 1857 ostensibly forced all U. S. territories to legally recognize the institution of slavery.4 Instead, this article is an attempt to recreate the historical and legal context in which the act was drafted in 1852, interpret the law based upon a close reading of its text and other contemporary sources, and analyze how Utah courts put the law in practice over the next four years. No doubt, this may leave some unsatisfied. Nevertheless, "An Act in Relation to Service" was first and foremost a statute, and to properly understand its meaning, it is important to approach it as such.

In mid-nineteenth-century America, indentured servitude and slavery existed side by side as long-established forms of "unfree labor." Essentially this meant that both slaves and indentured servants were legally bound to labor for their masters for their entire terms of service. However, while these conditions were in many ways comparable to one another, important legal and practical distinctions separated them. For instance, slavery in America was by definition "a lifetime status, passed on to the children of slaves, who in their turn were slaves for life."5 In other words, slavery was involuntary, permanent, and hereditary. In contrast to slavery, indentured servitude was typically entered into voluntarily and was limited to a specified term of years. Even more significantly, the condition of servitude was not hereditary and therefore did not pass on to one's children.

Slavery in the United States was further characterized by the absolute domination of the slave by his or her master and the consequent dehumanization of the slave. By the mid-nineteenth century, American law had begun to recognize a degree of humanity in African slaves. For instance, under contemporary law the willful killing of a slave would have been considered murder in most jurisdictions.6 But even under the most liberal standards, a slave was still not considered to be a legal person. Rather, a slave was viewed to be the

personal property of his master. This was, of course, the very essence of chattel slavery; the premise that in most instances, an African slave was legally equivalent to livestock or a piece of furniture and therefore could not lay claim to any particular set of rights.

Indentured servitude also conveyed a large measure of control over the servant to his or her master. Traditionally, the labors of an indentured servant could be sold from one master to another and these servants faced many restrictions on their personal liberties. Indeed, one scholar concludes that indentured servants lived in a state of "half-freedom." 7 But in an indenture relationship, the master actually owned the potential labor of his servant, not the servant himself. Consequently, the association between a master and servant was essentially one of contract and, perhaps more importantly, an indentured servant always remained a person rather than a mere chattel. Among other things, this conveyed the ability for an indentured servant to sue his master while a slave did not have that legal right.

By the 1830s, indentured servitude was rapidly disappearing among white Americans in favor of a “free labor” model of employment. Yet, as many Northern states began the long process of abolishing slavery in the late eighteenth and early nineteenth centuries, modified forms of indentured servitude were created as a status for former slaves and their children.8

Orson Hyde, whose 1851 article in the Frontier Guardian described the Mormon position on slavery.

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After the Revolutionary War, some Northern states adopted laws to fully emancipate all of their slaves immediately. However, many legislators feared what would happen if a large number of slaves were suddenly freed. They also felt the need to honor the property interests of slaveholders. As a result, states like Connecticut, Pennsylvania, New York, and New Jersey adopted laws which would emancipate their slaves only gradually. In fact, these statutes did not free anyone who was in a state of slavery at the time of their adoption. Any such person would actually remain a slave until his or her death. Instead, these laws freed only the children of slaves who were born in the state after the statute was enacted. But there was a catch. These children were to remain “in servitude” until they reached their mid to late twenties.9 This was a kind of hybrid status especially devised for the children of slaves. It was not slavery, but neither was it a traditional form of indentured servitude or apprenticeship. In the words of historian Joanne Melish, this constituted an “an entirely new form of servitude,” which was noncontractual and involuntary yet had a definitive end.10 In 1775, Levi Hart, a Connecticut clergyman and early advocate of gradual emancipation, defended such provisions under a theory that these children should be forced to repay "an equivalent for their education" to their masters. 11

However, once this period was over, the child would become totally free and perpetual servitude based on race would thus gradually expire. Relying on these systems of gradual emancipation, most of the above mentioned states finally abolished slavery in the late 1840s.

But even when a state took steps to completely abolish slavery, legislatures still struggled with the desire to protect the property interests of slaveholders. For instance, after four decades of gradual emancipation, New Jersey abolished slavery as a legal status in 1846. Nevertheless, New Jersey created a new legal category for those individuals who

remained in a state of slavery at the time of the law's adoption. These were thereafter called "perpetual apprentices," and the New Jersey abolition statute made them a form of indentured servant for life.12 In some ways, this status still closely resembled slavery. It was, of course, both involuntary and perpetual. Nevertheless, it was not hereditary as all children born to such an individual would be "absolutely free from their birth, and discharged of and from all manner of service whatsoever." 13 Concurrently, a master's ability to dominate his African American servant was severely curtailed, and the servant was actually given the ability to gain his freedom if the master was "guilty of any misusage, refusal of necessary provision or clothing, unreasonable correction, cruelty or other ill treatment."14 In sum, despite the law's obvious shortcomings, its provisions legally transformed those who had been mere chattels back into human beings and contemplated the eventual end of all forms of perpetual servitude based on race. Similar measures were also adopted in areas where slavery had never been legal in the first place. For example, slavery was explicitly barred in Indiana Territory by the Northwest Ordinance of 1787. However, the Indiana legislature passed a statute in 1807 that was meant to honor the property interests of slaveholders who settled within the territory, yet to concurrently alter the legal relationship between master and slave and to initiate a system of gradual emancipation. This law allowed immigrating slaveholders to enter into a contract with their slaves whereby the slave legally became an indentured servant and remained bound to the master for a term of years. In practice, this law suffered the same shortcomings as that from New Jersey creating perpetual apprentices. It is difficult to imagine that these contracts were completely voluntary on the part of the servant. Indeed, if the servant refused to sign the indenture contract, she could immediately be returned to a state that officially recognized slavery.15

At the same time, the law did not set any upper limit on the term of these indentures. While indenture contracts for whites typically lasted no more than seven years, a fortyyear term was not unheard of for an African American servant. Thus, the law effectively authorized lifetime indenture contracts for former slaves. 16 Because of such provisions, courts ruled that these indenture contracts represented a lawful form of "involuntary servitude." This was a somewhat hazy status somewhere between slavery and traditional indentured servitude. Like slavery, the status was involuntary in that the service agreement was not entered into while the servant was in "a state of perfect freedom." In addition, the servant was probably not given "bona fide consideration" for his work. Nevertheless, involuntary servitude was distinct from slavery in that individuals in such a status were not mere chattels, nor was the status hereditary. 17 Instead, as with other gradual emancipation laws, the children of these servants could only be forced to labor until they reached their late-twenties to mid-thirties, and then they would become legally free. The law also guaranteed a variety of rights for these newly indentured servants. For instance, the master of such a servant could not remove that servant from Indiana Territory without the servant's express consent as communicated to a judge.18

Even though this statute soon fell out of favor in Indiana, it was adopted by Illinois Territory in 1809 where the law's basic terms were upheld for decades to come.19 As late as 1843, when the Mormons were settled in Nauvoo, the Supreme Court of Illinois continued to uphold indenture contracts entered into under this statute. In the case of a woman named Sarah Borders, the court upheld a forty-year indenture which she had contracted with her master as a fifteen-year-old slave.20 Consequently, it is more than likely that the Latter-day Saints were aware of Illinois' technique of legally transforming slaves into quasi-indentured servants and then freeing their children after a period of servitude. Indeed, since most Latterday Saints originally came from New England and other Northern states, they would have already been familiar with various schemes of gradual emancipation which combined the ultimate goal of abolition with an underlying respect for property rights and a desire to maintain a degree of control over recently freed blacks. For instance, in an 1856 sermon, Brigham Young vividly recalled the gradual emancipation laws from his former residence of New York. He reminded his audience that New York,

> *"used to be a slave State, but there slavery has for some time been abolished. Under their law for abolishing slavery the then male slaves had to serve until they were 28 years old, and if my memory serves me correctly, the females until they were 25, before they could be free. This was to avoid the loss of, what they called, property in the hands of individuals. After that law was passed the people began to dispose of their blacks, and to let them buy themselves off. They then passed a law that black children should be free, the same as white children, and so it remains to this day.21"*

It is interesting to note that Young actually mischaracterized the legal status of the "slaves" who were freed under the New York statute; they were not slaves, but servants under that new form of indentured servitude described above. This indicates how easy it was to confuse modes of servitude that were legally distinct from one another yet bore apparent similarities. In any event, Young's statement makes it plain that he at least had a basic understanding of Northern policies for gradual abolition.

African slavery had been an issue of enormous consequence within the Mormon community ever since a party of Latter-day Saints settled in the slave state of Missouri in the early 1830s. In 1833, the Saints were actually driven from Jackson County, Missouri, in large part because the Missourians believed that these Yankee interlopers were committed abolitionists. As a result, over the next decade the church leadership consciously attempted to maintain a moderate stance on the slavery question in order to avoid conflict with those around them.22 But by 1844, when the Mormons had gathered in Illinois, the prophet Joseph Smith adopted the position that the United States government should emancipate African slaves and compensate their owners for the loss of their service. “Break off the shackles from the poor black man,” Smith wrote, “and hire them to labor like other human beings.”23 This proposal overtly recognized the significant property interests of slaveholders even while it acknowledged the inherent humanity of those of African descent and called for an end to African slavery.

Despite Smith’s call for national abolition, a small number of southern Mormons continued to hold slaves and brought them west after Smith’s assassination. 24 By 1850 there may have been up to eighty-seven slaves residing in and around the Salt Lake Valley. These made up less than 1 percent of the territory's population even at their peak, and their numbers quickly decreased in both absolute and relative terms. Ten years later there were fewer than thirty in Utah.25

Nevertheless, in the three years between the Mormon settlement of Salt Lake Valley in 1847 and the formal organization of Utah Territory in 1850, African American slavery was arguably illegal throughout the region as a result of Mexican law. However, it seems highly doubtful that the Latterday Saints understood that Mexican law applied to their new home. Indeed, they seemed to believe that the Great Basin was devoid of any legal system when they arrived and that they would soon be subject to the laws of the United States as a result of the Mexican War. 26Yet neither the Mormons’ first theocratic government (1847-1849), nor their provisional State of Deseret (1849-1851) chose to create any laws in regard to African slavery whatsoever. This was probably the result of two factors. First, there were so few slaves living in the Great Basin that defining their legal status seemed a matter of little importance, particularly when compared to the problems of establishing a new community in the barren Great Basin. Second, the lack of action was based on advice from such men as Thomas L. Kane, a politically savvy philanthropist from Philadelphia. Although an ardent abolitionist, Kane warned the Latter-day Saints that any legislation they drafted in regard to slavery was likely to offend either Northerners on the one hand or Southerners on the other. This in turn could materially damage the Mormons’ bid for statehood which would soon be submitted to Congress. Consequently, he urged the Mormons to take no public position on the issue at all.27 Desperate to obtain statehood, the Saints largely followed Kane's advice.

However, there were at least two notable exceptions to this effort. The first occurred in the fall of 1849, roughly a year before Congress organized Utah as a territory. At that time, the Zachary Taylor administration proposed that the Latter-day Saints in the Great Basin join with the settlers of California to create a single state encompassing the former Mexican province of Alta California. President Taylor hoped that such a move would circumvent a congressional debate regarding slavery in the new territories conquered from Mexico. In the so-called “Deseret Petition,” the Latter-day Saints informed California’s constitutional convention that even though “a respectable minority of the People of the [Salt Lake] Valley [are] in favor of Slavery, still a very large majority are opposed to it.” Therefore, the Mormons wrote that they would vote for provisions in a state constitution “prohibiting slavery forever.” 28 Nothing came of these negotiations between the Mormons and California. Nevertheless, the Deseret Petition may be taken as a general description of contemporary attitudes toward slavery in Utah, which were largely negative.

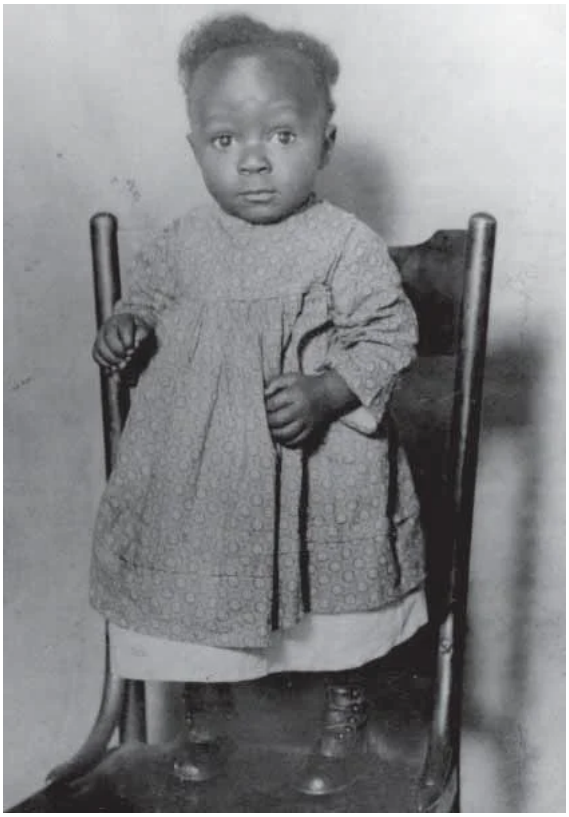
Then, in early 1851, Mormon Apostle Orson Hyde published a newspaper article in the Kanesville, Iowa, Frontier Guardian that attempted to explain the official position of the LDS church in regard to slavery. Although he wrote this article a few months afterthe Utah Territory was organized in September 1850, it most likely presented the de facto position of African slavery in the Great Basin ever since the Mormons first settled there in 1847. Hyde explained that when, a man in the Southern States embraces our faith, and is the owner of slaves, the church says to him, if your slaves wish to remain with you, and to go with you, put them not away; but if they choose to leave you, or are not satisfied to remain with you, it is for you to sell them, or to let them go free, as your own conscience may direct.29

He continued that there were “several men in the Valley of the Salt Lake from the Southern States who have slaves with them.”

Nevertheless, he asserted that there was “no law in Utah to authorize Slavery, neither any to prohibit it. If the slave is disposed to leave his master, no power exists there, either legal or moral, that will prevent him. But if the slave choose to remain with his master, none are allowed to interfere between the master and the slave.”30

Hyde's statements clearly indicate that some form of African servitude was tolerated in early Utah. Yet his description of the institution is fraught with paradoxes. Certainly, it does not seem to comport with traditional notions of chattel slavery. For instance, Hyde asserted that in Utah there were no legal mechanisms to enforce a master's rights over his slave. This meant that at least in theory, an African "slave" who lived in Utah was legally free to leave his master at any time. But the idea that a slave, a piece of property, could simply leave his master at will was anathema to the very notion of slavery. Indeed, Hyde implied that the relationship between a Mormon master and his slave was entirely voluntary once they entered the Great Basin. Thus, if Hyde's descriptions are accurate, then the term "slave" as it was used in early Utah was merely a label for a black servant that was devoid of any legal significance.31

From the point of view of the slave, the reality of these associations was no doubt far more complicated than Hyde suggests. Even with no law authorizing slavery, the master clearly had the upper hand in any such relationship. Nevertheless, as a description of legal principle, Hyde makes it plain that in Utah, no person described as a "slave" could actually be considered the property of his or her master. Rather, these individuals were human beings who should be given a large degree of personal autonomy, even to the point of leaving their master's service if they so chose.32 It remains unknown if any slave attempted to exercise this supposed right between 1847 and 1852, when the Utah territorial assembly enacted "An Act in Relation to Service." Still, it is likely that some Mormons (particularly those who brought slaves to Utah) were uncomfortable with these "at-will" relationships, even if their voluntary nature was largely hypothetical. At the very least, this faction wished the territorial government to legally recognize the property interest that they maintained in the labor of their African servants.33



According to the 1852 law, children born in Utah were not subject to perpetual servitude regardless of their parents status.

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At the same time, Mormons were also forced to deal with the problems associated with Indian slavery in Utah Territory. For decades, the equestrian Utes had been raiding weaker Indian tribes for slaves (typically children) whom they then sold to Euro-American traders along the Old Spanish Trail or to other Native Americans. Since their arrival in the Salt Lake Valley, the Saints had initiated a policy of purchasing or "redeeming" these Indian slaves largely for humanitarian reasons. Nevertheless, they often kept these children as apprentices or indentured servants until they worked off the price of their own purchase.

But despite their nominal involvement with this practice, the Saints were anxious to stop the Indian slave trade in Utah, which they believed was a source of instability and violence. In December 1851, a party from New Mexico led by Don Pedro Leon was actually arrested by a Mormon posse for engaging in the slave trade with the Utes.34

Earlier that year, news reached Great Salt Lake City that Utah Territory had been organized by Congress under a regime of popular sovereignty. This specifically granted the Mormons an opportunity to create new legislation in regard to slavery. By the end of 1851, this legislative authority was given an added sense of urgency by the arrest of Don Pedro and his compatriots. As a result, Governor Brigham Young became convinced that the time had finally come to fashion a legal framework to deal with the question of slavery in Utah. In January 1852, Young announced his official position on the subject to the territorial legislature during its first annual session. He said,

A view of Great Salt Lake City in 1853, a year after "An Act in Relation to Service" was past by the Utah Territorial Legislature.

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> *"It is unnecessary, perhaps, for me to indicate the true policy for Utah, in regard to slavery. Restrictions of law and government make all servants; but human flesh to be dealt in as property, is not consistent or compatible with the true principles of government. My own feelings are, that no property can or should be recognized as existing in slaves, either Indian or African. No person can purchase them, without their becoming as free, so far as natural rights are concerned, as persons of any other color...[Nevertheless,] [s]ervice is necessary; it is honorable; it exists in all countries, and has existed in all ages...Thus, while servitude may and should exist, and that too upon those who are naturally designed to occupy the position of "servant of servants," yet we should not fall into the other extreme, and make them as beasts of the field, regarding not the humanity which attaches to the colored race...35"*

Over the next decade, Young's actions and statements concerning slavery were a veritable Gordian Knot of seeming inconsistencies. Like many Northerners of his generation, Young had no love of slaveholders, yet neither did he sympathize with the divisive abolitionists.36 Considerations of politics further complicated his views and rhetoric. Nevertheless, certain themes come out clearly in Young's speeches, particularly in this early proclamation to the territorial legislature. Similar to many of his contemporaries from both the North and the South, Young strongly believed in the Biblical "curse of Ham" or "curse of Cain." In short, this posited that God had anciently cursed those of African descent to be "servant of servants."37 Such a belief had been used to morally justify slavery throughout America since at least the seventeenth century. Indeed, six years after the Utah Legislature passed "An Act in Relation to Service" a Georgia lawyer began an exhaustive study of American slavery with the observation that slavery "dates back at least to the deluge. One of the inmates of the ark became a 'servant of servants;' and in the opinion of many the curse of Ham is now being executed upon his descendants, in the enslavement of the negro race."38

There is abundant evidence that Young took this scriptural gloss literally and absolutely believed that until God lifted the curse of Ham, Africans should be servants. 39 Nevertheless, Young made an implicit distinction between a servant and a slave, even if it was not always reflected in his choice of terminology. Like Joseph Smith, Young fervently believed in the essential humanity of all people regardless of color. As a result, he would not countenance a system that reduced a person, whether Indian, African, or European, to a piece of personal property. To do so was, as he said, "not consistent or compatible with the true principles of government." 40 In other words, Young rejected the very premise of chattel slavery. On the other hand, he believed that servitude was quantifiably different. Even though this system still placed the master in a vastly superior position to the servant,

it also recognized the inherent humanity of the servant, insisted that the servant retain a degree of self-determination, and provided the servant with numerous legal protections. It therefore neatly tied together all of Young's theological preconceptions about African Americans.

As a result, Young advised the legislature to create a modified system of indentured servitude for African American slaves and for Indians purchased by the Mormons. This would ensure that the Indians would repay their benefactors for "purchasing them into freedom," while simultaneously honoring the rights of Southern slaveholders.41 Nevertheless, Young was adamant that no person in Utah could be held as a piece of property. Indeed,Young personally believed that the best method for carrying out his theories in regard to African Americans was to hire free blacks as wage servants rather than legally binding them to a master.42 But like Joseph Smith before him, Young rejected the idea of simply stripping slave-owners of their property rights. In fact, this is one reason why Young was so thoroughly disgusted by abolitionists. Young and his colleagues also remained keenly aware of Thomas Kane's warning that any legislation in regard to African American slavery was sure to damage the Mormons' continuing drive for statehood. Therefore, after taking all of these factors into consideration, the legislature soon drafted two laws to formalize indenture contracts with racial minorities in the territory.

On the last day of January 1852, the legislature passed "An Act for the Relief of Indian Slaves and Prisoners."43 In its preamble, the legislature noted that it was "the duty of all humane and christian people to extend [Indian captives]...such relief as can be awarded to them." 44 Therefore, it officially sanctioned the Mormon practice of buying Indian children from their captors. The legislature also authorized the Mormons to keep these children as indentured servants or apprentices for a term of no more than twenty years as long as the indenture was approved by the county selectmen or probate court, and as long as the master assured that his "apprentice" was properly clothed and sent to school for at least three months a year.45

Four days later, the legislature passed "An Act In Relation to Service." In order to avoid controversy in Congress which may have hindered the Mormons' quest for statehood, the law was enacted with little fanfare and its terms were left somewhat vague. Indeed, the journals of the legislature in regard to the statute are almost empty, and in contravention of usual practice, the law was not even published in the Deseret News, Utah's only newspaper at the time. 46 Consequently, the best sources of legislative purpose for the statute are Brigham Young's statements to the legislature before and directly after its enactment. These are bolstered by other near contemporary documents such as Orson Hyde's 1851 article and the Deseret Petition mentioned above. When these sources are combined with the plain text of the statute, it becomes evident that the act created an indenture system reminiscent of those that the Mormons had become acquainted with in Illinois and other northern states.47

The first section of the act states quite simply that any person coming into Utah was legally entitled to the labor of "servants justly bound to them, arising from special contract or otherwise," as long as "written and satisfactory evidence that such service or labor is due," was presented to a county probate court. In other words, the legislature was willing to uphold labor relationships between white masters and their African American servants, which had been formed outside of the territory. This must have come as a relief to Mormon slave-owners who, up until that time, had no legal right to the labor of those slaves who had come with them to Utah. In fact, the wording of this section makes it appear that the legislature was willing to recognize labor relationships which were not dependent on contract such as slavery. However, the remainder of the act clearly shows that the legislature actually intended to legitimize a form of indentured servitude and not chattel slavery.

Section 2 of the statute dictated how a valid labor relationship was to be proven. It stipulated that "the Probate Court shall receive as evidence any contract properly attested in writing or any well proved agreement wherein the party or parties serving have received or are to receive a reasonable compensation for his, her, or their services."48 Such language unmistakably refers to an indenture contract between a master and servant supported by some form of reasonable consideration. In other words, the servant must somehow be compensated for his work. Thus, while such a contract legally entitled a master to the labor of his servant, it was obvious that the master did not own that servant as a chattel. After all, one does not compensate livestock.But even more importantly, the section stated that no contracts would be honored that "shall bind the heirs of the servant or servants to service for a longer period than will satisfy the debt due his, her, or their master or masters." Consequently, probate courts could not recognize an indenture contract which attempted to impose a permanent condition of servitude upon the "heir" of an African American servant. Later clauses indicate that this contemplated the child of a servant who was actually born in Utah. Such children could only be forced to work as long as necessary to repay any debts that were owed to their parent's master. This reflected the old gradual emancipation laws which authorized a period of servitude to be extended

over the children of slaves before they were legally free. Yet, it also specifically disallowed perpetual servitude based on heredity.

Despite this injunction, Section 3 of the act provided that an African American servant and her children who were brought into the territory by their master "from any part of the United State[s], or any other country" could legally be held as servants for life.49 Like the Indiana indenture statute of 1807 and the New Jersey law creating "perpetual apprentices," this provision was meant to honor the antecedent property interests of slave-owners. But as in Section 2, the plain language of the statute did not give a master any permanent rights over the child of an African American servant who was born in Utah Territory.50 This meant that perpetual servitude would legally expire within one generation of a bound servant entering Utah, and therefore created an implicit system of gradual emancipation. At the same time, Section 3 also imposed two conditions before any perpetual indenture would be recognized in the Utah Territory. First, it required that the master of a perpetual servant must submit to a probate judge "the certificate of any Court of record," that he was "entitled lawfully to the service of such servant…" 51 The law further specified that these relationships would only be upheld "if it shall appear that such servant or servants came into the Territory of their own free will and choice." This clause shows yet another way in which the legislature attempted to draw a bright line distinction between a servant and a slave.

A daughter and two granddaughters of Green Flake— Martha J. Perkins Howell, (granddaughter); Lucinda Flake Stevens, (daughter); and Belle Oglesby, (granddaughter).

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In 1851, Orson Hyde had insisted that Mormon slave owners were obligated to present their slaves with a choice between accompanying their master to Utah, or remaining in the states. There are a number of practical reasons why a slave might voluntarily remove to a jurisdiction like Utah or Illinois despite their acceptance of lifetime servitude. For instance, in these jurisdictions (unlike in the slave states) their children would eventually be freed as a matter of law. Nevertheless, it is difficult to believe that a slave could ever make a truly voluntary choice, particularly when that choice may have involved either remaining a slave or becoming a servant for life. In fact, for this very reason the Illinois Supreme Court had ruled that the indenture law of 1807 constituted a (legal) form of involuntary servitude.52

Yet drawing upon the central Mormon doctrine of free agency, the Utah Territorial Legislature apparently determined that even a slave had the ability to make a voluntary choice if it was presented to her.53 As a result, a slave's choice to accompany her master to Utah was a fundamentally transformative event. Suddenly, a relationship of total subjugation had instead become a relationship of nominal consent. Thus, evidence showing that a slave came to Utah "of their own free will and choice" indicated that this individual was now bound to her master through an act of personal will rather than merely being a chattel that was subject to the whims of her master. Despite this apparent requirement for consent, Utah's indenture system was most likely a form of involuntary servitude just like the practices in Indiana and Illinois. This was because the servant was plainly not in "a state of perfect freedom" when the agreement was made.54 But in the minds of the legislators, the necessity of consent represented a basic distinction between a chattel and a human being, and therefore between a servant and a slave.

To reinforce this change of status from slave to servant, "An Act in Relation to Service" also guaranteed certain rights to African American servants, and continued to emphasize the need for consent in the relationship. Like standard indenture contracts, the law permitted masters to punish their servants "in a reasonable manner when it may be necessary, being guided by prudence and humanity." Nevertheless, a probate judge could declare the contract between master and servant to be null and void if the master was "guilty of cruelty or abuse, or neglect to feed, clothe, or shelter his servants in a proper manner."55 When New Mexico Territory created a true slave code in 1859, it also provided that a master could be fined or imprisoned for the "cruel and inhuman treatment" of a slave. However, New Mexico followed Southern precedent and barred any "slave, free negro, or mulatto" from giving evidence in court "against a free white person."56 In contrast, Utah created no legal barrier to an African American servant testifying against his or her master under similar circumstances. Further, the sale of an African servant from one master to another was permitted under the law just like in a traditional indenture. Nevertheless, this required both the approval of a probate court and the explicit consent of the servant which was to be expressed to a judge "in the absence of his master or mistress."57 Seemingly, this was meant to ensure that a servant could not be unilaterally separated from his home and family. To enforce this measure, any unauthorized transfers within the territory, and any attempts to remove an African American servant from the territory contrary to his or her wishes, could result in a heavy fine, imprisonment, and forfeiture of the servant. An important court case four years later would prove that the Mormons took this provision very seriously. The law also tried to defend African American servants from sexual exploitation by their masters, a common problem in both indenture and slave relationships.58 Finally, the statute required a master to send his African American servants between six and twenty years old to school for at least eighteen months. Again, this stands in stark contrast to the Southern slave codes which often made it a criminal offense to teach a slave how to read.59

At the end of 1852, Governor Young declared himself perfectly satisfied with "An Act in Relation to Service," and added that if similar measures were adopted around the country, it could alleviate the growing national divide over the question of slavery. He assured the territorial legislature that:

> *"not until the subject of servitude and the relation existing between Master and Servant shall be understood and acted upon, and carried out by all parties on a righteous principle, may we expect quiet in our Nation's councils. When southern Statesmen shall learn that Africa's sons and daughters are not goods and chattels, and will attach unto them, that humanity and moral accountability to which they are entitled...and northern fanaticism learn to know that "Canaan" shall be servant of servants unto his brethren...If [abolitionists] wish to do [slaves] a kindness...let them purchase them into freedom, and place them in their own household, where they can partake of their kindness, wisdom, and intelligence...Happily for Utah, this question has been wisely left open for the decision of her citizens, and the law of the last session, so far proves a very salutary measure, as it has nearly freed the Territory of the colored population; also enabling the people to control all who see proper to remain, and cast their lot among us.60"*

Here, Young once again makes it clear that under "An Act in Relation to Service," no person could be considered a piece of property. In other words, the statute did not legalize chattel slavery in the territory. Nevertheless, African American servants did not partake in the at-will employment which Orson Hyde had described in 1851. Indentured servitude remained an "unfree" form of labor, and once a Utah judge was convinced that a slave had consensually bonded himself to his master as an indentured servant, that servant could then be legally forced to labor for the rest of his natural life.

Four years after "An Act in Relation to Service" was passed, the probate court of Great Salt Lake County heard the only known case that directly touched on the law's provisions. The case helps to illustrate the contradictions inherent to this new system of servitude, and the

tensions that continued to exist within the Mormon community over the institution of slavery after the statute was enacted.

On June 16, 1856, Edwin D. Woolley filed a complaint before Judge Elias Smith against another Mormon named Williams Camp.61 Woolley was a prominent local businessman, a confidant of both Joseph Smith and Brigham Young, a Mormon bishop, and finally a member of the territorial legislature which had drafted "An Act in Relation to Service." He had also been raised a Quaker in Pennsylvania before joining the LDS church, and presumably had grown up with a deep abhorrence of slavery.62 Woolley contended that Camp and several associates had kidnapped a "negro named Dan," and attempted to remove him from the territory without his consent in contravention of the law. 63 Dan had been born as Camp's slave in Tennessee in 1833, probably moved with Camp to the Mormon headquarters in Nauvoo, Illinois, after his master's conversion, and finally accompanied his master to Utah in 1850.64 In short, Dan was just the sort of person that "An Act in Relation to Service" was designed for.

The same day that Woolley made his complaint to Judge Smith, Governor Young held a meeting with several law enforcement officers to discuss "Brother Camp taking away his Negroes."65 It seems clear that Young was also concerned that Dan's rights were being violated and that Camp planned to remove him and other African American servants from the territory unlawfully. However, according to Hosea Stout (Camp's defense attorney) Dan had actually attempted to escape from his master and was then recaptured with the help of a few companions. Preliminary hearings and the ensuing trial moved forward quickly over the next several days.

Early on, a motion was argued as to whether Dan could testify against Camp, and Judge Smith ruled that he could. Nevertheless, the court finally acquitted Camp and his compatriots of kidnapping Dan, apparently on the grounds that Dan was in fact a fugitive from labor. Stout concluded in his journal that there was "a great excitement on the occasion. The question naturally involved more or Less the Slavery question and I was surprised to see those latent feeling[s] aroused in our midst which are making so much disturbance in the states."66

Several points of interest arise out of the trial. To begin with, it is evident that some members of the Mormon community (largely of Southern extraction) had begun to rely on "An Act in Relation to Service" in order to protect their interests in the labor of African American servants. Others, including Edwin Woolley and Brigham Young, used the law as a means to defend those same servants from abuse by their masters. It also reveals the fault lines which still existed in Utah in regard to slavery, and a general confusion about the status of bonded African Americans. Under "An Act in Relation to Service," Dan could not legally be considered a slave. In fact, nowhere in any court document is Dan ever referred to as a slave. Instead he is referred to as a "negro," or "coloured person," who was "lately in the service of Williams Camp."67 Still, it is likely that Dan was bound to labor for Camp under a long-term indenture contract as authorized by territorial law. Because specific performance of such a labor contract over the servant's later objections certainly appeared slave-like, Hosea Stout asserted that the case involved "more or Less the Slavery question," and it was this question which created such "a great excitement" in the community. Thus, notwithstanding the legal and practical realities which differentiated African American servants such as Dan from slaves, it seems that some Mormons failed to make a distinction between the two. Brigham Young had made a similar mistake when describing the laws of New York as mentioned above. As a result, William Camp's attempt to recapture his indentured servant elicited the same strong feelings which many Latter-day Saints harbored towards chattel slavery.

In conclusion, "An Act in Relation to Service" certainly did not create the system of compensated emancipation that Joseph Smith had advocated in 1844. This had been conceived as a national program subsidized by the federal government and would have been impossible to implement in cash poor Utah Territory.68 Instead, based upon a series of Northern laws, the Utah legislature chose to honor the expectation of immigrating slaveholders that they were entitled to the continued labor of their slaves for life. However, the legislature refused to create a system of chattel slavery in which one individual could own another as a piece of property. Instead, "An Act in Relation to Service" required that slaves must come to Utah "of their own free will and choice," that their legal status must be altered to a modified form of indentured servitude, that these newly minted servants must receive some kind of reasonable compensation for their work, and that they must be guaranteed certain personal rights as fellow human beings. Despite the requirements of the statute, the Utah indenture system was most likely a form of involuntary servitude, similar to the system created by Indiana in 1807 and continued in Illinois. Nevertheless, the expectation of perpetual service which applied to former slaves would not extend to their children who were born in Utah. Hereditary indenture was rejected by the legislature, and life-long bondage based on race would therefore be eliminated within a single generation. In the end, "An Act in Relation to Service" represented an old solution to an old problem and reflected both Mormon theology and Mormon cultural roots in New England and other

Northern states. It was also a legislative success for its drafters; as the Latter-day Saints desired, the law was all but ignored outside of Utah Territory.69

NOTES

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1 Popular sovereignty generally refers to the proposition that the people are the ultimate sovereigns of a nation, and it is therefore the basis of American republicanism. However, in the mid-nineteenth century, Senators Lewis Cass and Stephen Douglas formulated a policy for territorial self-governance (particularly in regard to slavery) which was also known as "Popular Sovereignty."

2 See,Nathaniel R. Ricks, "A Peculiar Place for a Peculiar Institution: Slavery and Sovereignty in Early Territorial Utah (Master's Thesis, Brigham Young University, 2007); Dennis L. Lythgoe, "Negro Slavery in Utah," Utah Historical Quarterly 39 (Winter 1971): 40-54; Newell C. Bringhurst, Saints, Slaves, and Blacks: The Changing Place of Black People Within Mormonism (Westport, CN.: Greenwood Press, 1981).

3 See, Nathan B. Oman, "Specific Performance and the Thirteenth Amendment," MinnesotaLawReview (2009): 2020-56.

4 Dred Scott v. Sanford, 60 U.S. 393, 395 (1857).

5 William M. Wiecek, "The Origins of the Law of Slavery in British North America," Cardozo Law Review 17 (May 1996): 1711, 1714, 1736.

6 The Virginia Slave Code of 1705 provided that "if any slave resist his master, or owner, or other person, by his or her order, correcting such slave, and shall happen to be killed in such correction, it shall not be accounted felony; but the master, owner, and every such other person so giving correction, shall be free and acquit of all punishment and accusation for the same, as if such accident had never happened..." This is an example of what the lawyer Thomas Cobb called "absolute slavery" in an 1858 treatise. He argued that under such a regime, a slave was legally considered to be nothing more than a piece of property. Accordingly, such a slave could be totally deprived of "life, liberty, and property, under the absolute and uncontrolled dominion of his master." However, Cobb maintained that under contemporary American law, the legal status of slave had actually become more subtle. In fact, he believed that by the mid-nineteenth century, slaves had actually taken on a sort of hybrid status between a legal person and property. Thus, while the slave was beholden to the will of his or her master and could be sold and otherwise used like a chattel, the killing of a slave by his master would be treated as a murder. Historian Joanne Melish has added that this hybrid status of slaves as both people and property had always been recognized in the law of New England, but not necessarily in the Southern legal system. Virginia Slave Code (1705) found at http://rcchonorshistory.wordpress.com/2008/09/29/virginia-slave-code-1705/ (accessed September 4, 2010); Thomas Cobb, An Inquiry into the Law of Negro Slavery in the United States of America (1858, New York: Negro University Press, 1968), 83; Joanne Pope Melish, Disowning Slavery: Gradual Emancipation and "Race" in New England, 1780-1860 (Ithaca, NY: Cornell University Press, 1989), 26.

7 Alexa Silver Cawley, "A Passionate Affair: The Master-Servant Relationship in Seventeenth Century Maryland, The Historian 61(1999):753.

8 Cawley, "A Passionate Affair," 753; R. Kent Lacaster, "Almost Chattel: The Lives of Indentured Servants at Hampton-Northampton, Baltimore County," Maryland Historical Magazine 94 (Fall 1999); Veronica Hendrick, "Codifying Humanity, the Legal Line Between Slave and Servant,"Texas Wesleyan Law Review 13: 685; Wiecek, "The Origins of the Law of Slavery in British North America," 17: 1711; Oman, "Specific Performance and the Thirteenth Amendment," 2020-56.

9 David Menschel, "Abolition without Deliverance: The Law of Connecticut Slavery 1784-1848," Yale Law Journal 111 (2001): 183.

10 Melish, Disowning Slavery, 69, 77-78.

11 Ibid., 61.

12 "An Act to Abolish Slavery, April 18, 1846" Revisions of 1846, Title XI, chapter 6, pp 382-90 in "The Law of Slavery in New Jersey: An Annotated Bibliography," The New Jersey Digital Legal Library, http://njlegallib.rutgers.edu/slavery/bibliog.html (accessed April 21, 2010). There were still "perpetual apprentices" in New Jersey into the early 1860s.

13 Ibid.

14 Ibid.

15 "An Act concerning the introduction of Negroes and Mulattoes into this Territory," in John Brown Dillion, A History of Indiana From Its Earliest Explorations By Europeans to the Close of Territorial Government in 1816 (Indianapolis: W. Sheets & Co., 1843), 617-19.

16 American slaveholders immigrating to Texas tried similar tactics in the late 1820s and early 1830s. Before gaining independence from Mexico in 1836, slavery was outlawed in Texas just as it was in the Great Basin a decade later. However, once American immigrants had legally freed their slaves, they immediately contracted with them to become indentured servants. At least one of these contracts bound a former slave to labor as an indentured servant for a term of ninety-nine years.Quintard Taylor and Shirley Ann Wilson Moore, eds., African American Women Confront the West: 1600-2000 (Norman: University of Oklahoma Press, 2003), 5.

17 Oman, “Specific Performance and the Thirteenth Amendment,” 2020-56. Like slavery, “involuntary servitude” was eventually barred by the Thirteenth Amendment except as a punishment for crime.

18 "An Act concerning the introduction of Negroes and Mulattoes into this Territory," and "An act concerning servants," Dillon, A History of Indiana, 617-21.

19 The Illinois Constitution of 1818 unequivocally banned the introduction of "slavery and involuntary servitude" into the state, and provided that no indenture contracts would be recognized henceforth unless they were entered into while in a “state of perfect freedom.” It also stated that any children born to African indentured servants in Illinois subsequent to ratification would be considered free at the age of twenty one for boys and eighteen for girls. Nevertheless, the constitution explicitly recognized all indentures which were contracted with former slaves over the previous decade and held them to specific performance.

20 Sarah, alias Sarah Borders, a woman of color v. Andrew Borders, 4 Scam. 3414 Ill. 341, 1843 WL 4086 (Ill.).

21 Journal of Discourses, 26 Vols. (London, 1854-86),4: 39.

22 Ricks, “A Peculiar Place for a Peculiar Institution,” 22-37.

23 Joseph Smith, Jr., General Smith’s Views of the Powers and Policy of the Government of the United States (Nauvoo: J. Taylor Printing, 1844), 7.

24 Ricks, “A Peculiar Place for a Peculiar Institution,” 48.

25 U. S. Bureau of the Census, The Seventh Census of the United States, 1850 (Washington, D.C., 1853), 953, and The Eighth Census of the United States, 1860 (1864), 574-79.

26 In the summer of 1846, as the Mormons were spread in refugee camps across the Iowa prairie, Brigham Young wrote to President James K. Polk that "as soon as we are settled in the Great Basin we design to petition the United States for a territorial government." But a year and a half later the Mexican War had not yet concluded and sovereignty over the Mountain West remained unclear. Consequently, the theocratic High Council of Great Salt Lake City declared in December 1847 that it was enacting a series of laws "in the absence of any organized jurisdiction of any Territory...for the government and regulation of the inhabitants of this city and valley for the time being, subject to the approval of the people." See, James R. Clark, Messages of the First Presidency, (Salt Lake City: Bookcraft, 1965), 1:299; Dale L. Morgan, The State of Deseret, (Logan: Utah State University Press, 1987), 196.

27 Wilford Woodruff, Wilford Woodruff’s Journal 9 Vols. (Salt Lake City: Signature Books, 1983-1984), 3:513-16; Bringhurst, Saints, Slaves, and Blacks, 65-66.

28 Quoted in Frederick A. Culmer, “‘General’ John Wilson, Signer of the Deseret Petition: Including Letters from the Leonard Collection,” California Historical Society Quarterly 26 (December 1947): 321-48.

29 The Frontier Guardian article was republished in the Millennial Star, February 15, 185, 63.

30 Ibid.

31 The continued use of the word "slave" by Mormons throughout the 1850s to describe their African American servants is no doubt one of the reasons why historians have misinterpreted "An Act in Relation to Service" for so long. It is possible that the Saints continued to use the term simply out of convention. However, there is also reason to believe that Brigham Young and other members of the Mormon hierarchy purposely used

the term "slave" when referring to black servants in order to appeal to Southern congressmen whose votes were desperately needed if Utah were ever to become a state.

32 This opinion seems to have been widely shared among most Latter-day Saints. For examples of widespread anti-slavery sentiment in pre-territorial Utah, see Bringhurst, Saints, Slaves, and Blacks, 62-63.

33 Bringhurst, Saints, Slaves, and Blacks, 68.

34 Sondra Jones, "`Redeeming' the Indian: The Enslavement of Indian Children in New Mexico and Utah," Utah Historical Quarterly 67 (Summer 1999): 220-41, and "The Trial of Don Pedro León: Politics, Prejudice, and Pragmatism," Utah Historical Quarterly 65 (Spring 1997): 165-86; Stephen P. Van Hoak, "Waccara's Utes: Native American Equestrian Adaptations in the Eastern Great Basin, 1776-1876, Utah Historical Quarterly 67 (Fall 1999): 309-33.

35 Deseret News, January 10, 1852. See also, "Governor Brigham Young's Speech before the Joint Session of the Legislature, January 5,1852," Journals of the House of Representatives, Council and Joint Sessions of the First Annual and Special Assembly of the Territory of Utah,held in Salt Lake City, 1851 and 1852 (Great Salt Lake City: Brigham Young Printer, 1852), 108-109. Microfilm reel 1, series 03145, Utah State Archives.

36 Journal of Discourses, 4: 39.

37 Genesis 9:25.

38 Cobb, An Inquiry into the Law of Negro Slavery, xxxv-xxxvi; see also, Melish, Disowning Slavery.

39 It should be noted that Young maintained that someday God would remove the curse from those of African descent. Until that happened, he taught Latter-day Saints that they should treat black people kindly, welcome them into their church, and elevate their positions in life wherever possible; yet certainly not to the point of religious or political equality. However, some Mormons had a more liberal outlook than this. For instance, Apostle Orson Pratt had no compunction about giving African Americans the right to vote in Utah. And although Joseph Smith had strongly discouraged miscegenistic relationships during his lifetime, it seems that the prophet had also supported full equality for African Americans within the LDS Church. Nevertheless, it was Young's position which eventually prevailed. SeeRichard L. Bushman, Joseph Smith: Rough Stone Rolling, A Cultural Biography ofMormonism's Founder (New York: Alfred A. Knopf, 2005), 288-89, 516-17; Governor Brigham Young's Speech before the Joint Session; Juanita Brooks, On the Mormon Frontier: The Diary of Hosea Stout1844-1861, 2 Vols (Salt Lake City: University of Utah Press and Utah State Historical Society, 1964), 2: 423.

40 Deseret News, January 10, 1852.

41 "Governor's Message," Deseret News, January 10, 1852.

42 SeeBrigham Young to Mrs. David Lewis, January 3, 1860, Brigham Young Collection, The Church of Jesus Christ of Latter-day Saints, LDS Church History Library; Horace Greely, An Overland Journey, from New York to San Francisco, in the Summer of 1859 (New York: C. M. Saxton; Barker & Co., 1860), 212.

43 "Acts Resolutions and Memorials," 93-94 .

44 Ibid., 92.

45 Ibid., 93-94.

46 Ricks, "A Peculiar Place for a Peculiar Institution," 99-100.

47 Scholar Newell C. Bringhurst has previously written that that the Mormons "looked upon Utah's institution of servile bondage as something like the practice of black indentured servitude that existed in...Illinois." However, Bringhurst still insisted that "An Act in Relation to Service" actually legalized African slavery in Utah Territory. Bringhurst, Saints, Slaves, and Blacks, 68-69.

48 It is unclear what would have been considered "reasonable compensation." A law from Indiana Territory had provided that a master properly feed and clothe his African American servants during the time of their indenture. It also required that if the servant had not "contracted for some reward" in exchange for his service that the master would provide the servant with a suit of clothes upon his or her release from bondage. This "freedom suit," therefore, served as a default form of consideration. See "An act concerning servants," in Dillon, A History of Indiana, 619- 21.

49 "Acts, Resolutions, and Memorials," 81. Although the law never states this directly, Section 3 makes it clear that the labor of an African American servant could be inherited

without limit, suggesting that such a servant would continue in that role even upon the death of their original master. In addition, the marginal notes published with Section 3 state that "Servants bro't from U.S. may be retained in servitude for life."

50 In an early version of the Utah act, Section 3 stated that a master and his heirs were entitled to the labor of an African American servant and “his, her, or their heirs, until the curse of servitude is taken from the descendents of Canaan.” If this language had been followed, it would clearly indicate that perpetual indentures could be passed generationally, and that the Utah Legislature was in fact trying to legalize a form of hereditary servitude much closer to chattel slavery. However, this clause was stricken from the final law. As a result the only language mentioning the “heir” of an African servant comes from Section 2. See Ricks, A Peculiar Place for a Peculiar Institution, Appendix 3,161.

51 “Acts, Resolutions, and Memorials,” 81.

52 See Phoebe, a woman of color, Plaintiff in Error, v. William Jay, Defendant in Error, 1 Ill. 268, [1828] WL 1662 (Ill.), Breese 268.

53 Mormon doctrine teaches that on a basic level all people are free to make choices about their lives, particularly in regard to personal salvation. See,i.e.,Book of Mormon, 2 Nephi 2:13-29.

54 Oman, Specific Performance and the Thirteenth Amendment, 2048.

55 Acts, Resolutions, and Memorials, 82.

56 Reports of Committees of the House of Representatives, 36th Cong., 1st Sess., 1860, Report No. 508, 6. Like Utah, New Mexico had also been organized under a regime of popular sovereignty as part of the Compromise of 1850.

57 This was similar to an Indiana law which stated that a "contract of service shall be assignable" if "the servant shall, in the presence of a justice of the peace freely consent," to the sale. "An act concerning servants," inDillon, A History of Indiana, 619-21.

58 The law stipulated that if "any master or mistress shall have sexual or carnal intercourse with his or her servant or servants of the African race," any claim to that servant would be forfeit "to the commonwealth." This was paired with a strong anti-miscegenation clause which criminalized any sexual activity between whites and blacks. But interestingly, it was only the white person who could be punished for such acts under the law. See Acts, Resolutions, and Memorials, 81.

59 See, i.e., Slave Codes of the State of Georgia (1848), Article 1, Section 11, paragraph 22 inhttp://academic.udayton.edu/race/02rights/slavelaw.htm, (accessed September 4, 2010).

60 “Governor’s Message,” Deseret News, December 25, 1852.

61 The People v. Williams Camp, et. al. (1856), Salt Lake County Probate Court Records, (microfilm reel 1, series 3372)Utah State Archives.

62 Leonard J. Arrington, From Quaker to Latter-day Saint: Bishop Edwin D. Woolley (Salt Lake City: Deseret Book Company, 1976); Melish, Disowning Slavery, 52-56.

63 Woolley was actually Camp's bishop. At some point, Woolley disfellowshipped Camp from the LDS church, although it is not known why. It may have been for fraudulently obtaining two promissory notes from one James Allen in April 1856. In any event, Woolley announced in February 1857 that Camp had been returned to full fellowship in the church. See Deseret News, April 9, 1856 and March 4, 1857.

64 Connell O'Donovan, "Let This Be a Warning to All Niggers": The Life and Murder of Thomas Coleman in Theocratic Utah,” (draft, June 2008) 2, inhttp://connellodonovan.com/coleman_bio.pdf (accessed July 16, 2010). It should be noted that Dan’s legal status at the time of his arrival in Utah would have been greatly complicated by his former residence in the free-state of Illinois.

65 Journal History of the Church of Jesus Christ of Latter-day Saints, June 16, 1856.

66 Juanita Brooks, On the Mormon Frontier: The Diary of Hosea Stout (Salt Lake City: University of Utah Press and Utah State Historical Society, 1964), 2: 597.

67 In 1858, Camp sold Dan's indenture to Thomas S. Williams, a local merchant. The following year, Williams sold Dan to his business partner William H. Hooper for eight hundred dollars. The document which recorded this second sale recited that Dan had been born as a slave, but then refers to him as a "Negro boy," throughout the rest of the writing. If this sale proceeded according to law, then Dan must have given his personal consent to a probate judge. Interestingly, this bill of sale was actually recorded before Franklin B. Woolley, the son of Edwin D. Woolley. The full document is in Lythgoe, “Negro Slavery in Utah”: 53.

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Utah and the Civil War Press

68 However, there is evidence that Brigham Young personally sought to buy African American servants from other Mormons in order to set them free. See Young to Lewis, January 3, 1860.

69 Ricks, "A Peculiar Place for a Peculiar Institution,"138-41.