

# JONES V. BENNET: THE BIFURCATED LEGAL STATUS OF EARLY NINETEENTH CENTURY FREE BLACKS IN KENTUCKY

By  
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## I. INTRODUCTION

In 1829, Henry Clay, then President of the American Colonization Society for the Free People of Color, pronounced:

“Of all the descriptions of our population, and of either portion of the African race, the free people of color are, by far, as a class, the most corrupt, depraved and abandoned. . . . They are not slaves, and yet they are not free. The laws, it is true, proclaim them free; but prejudices, more powerful than any law, deny them the privileges of freemen.”<sup>1</sup>

This pronouncement accurately describes the existence of Levi Jones. Jones, a free man of color, was emancipated by his master, William Chenault, on the 31st of May, 1830, in Madison County, Kentucky.<sup>2</sup> Jones’ family’s story, told through the case of *Jones v. Bennet*, sheds light on the struggles faced by free persons of color in Kentucky. This struggle took place against the background of the first half of the 19th century before Lincoln signed the Emancipation Proclamation, freeing millions of black slaves.<sup>3</sup> This paper will discuss the bifurcated status of early 19th century free blacks in Kentucky, both as “free blacks” under the eyes of the law and as second-class American citizens.

On May 8, 1840, the Court of Appeals of Kentucky decided the case of Levi Jones versus John and Samuel Bennet.<sup>4</sup> Levi Jones’ master, William Chenault, emancipated Jones 10 years earlier.<sup>5</sup> Unfortunately, this colored man, husband, and father of four would face a new burden with his new legal status. The Jones family would find itself defending the family’s freedom on at least two occasions because of unpaid debts.<sup>6</sup>

## II. 1801–1830: PROPERTY OF WILLIAM CHENAULT

William Chenault, Jr. was a member of one of the oldest families in Kentucky. His father, William Chenault, Sr., served in the Revolutionary war under General George Washington.<sup>7</sup> Chenault, Sr. was born in Albemarle, Virginia. Chenault was a descendant of Estienne Chenault, a French Huguenot who came to America with hundreds of others in 1701.<sup>8</sup>

Before Chenault settled in Kentucky, and after the Revolutionary War, the government issued soldiers land grants, encouraging the rapid settlement of Kentucky following the war.<sup>9</sup> Kentucky became part of Virginia’s Fincastle County in 1772 and

remained part of Virginia until officially gaining its statehood on June 4, 1792.<sup>10</sup> Many of the “old issue” free blacks (those freed before the civil war) descended from Africans born during the colonial period in Virginia.<sup>11</sup> Around 1786, William Chenault, Sr. settled in Kentucky with his slaves after purchasing a tract of land located near the present site of the city of Richmond, in Madison County. Chenault, Sr. died of the “cold plague” in the spring of 1813.<sup>12</sup>

William Chenault, Jr. was just thirteen when his parents brought him to Kentucky.<sup>13</sup> He became influential in public affairs, and in 1822 he served as a representative in the state legislature. William married Susanna Phelps, the daughter of Josiah Phelps, another pioneer of Madison County, Kentucky.<sup>14</sup> By 1802, Chenault was 27 years old. That same year, Levi Jones was born.<sup>15</sup> According to the 1810 Census for Madison County, Chenault was listed as having eight slaves.<sup>16</sup>

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The African-American presence in early Kentucky was due primarily to the transplant of Virginia’s model of slavery into the “trans-Appalachian West.”<sup>17</sup> Kentucky had fewer slave laws than one might find in other slave states, but the patterns were similar. The first Constitution of the State in 1792 provided that all the laws then in force in the State of Virginia should be in force in Kentucky, with a few exceptions.

“Similar to the laws of Virginia, Kentucky laws legally defined enslaved blacks as real estate, with no civil or human rights.”<sup>18</sup> Kentucky laws also promulgated the punishment for offenses committed by slaves; white legislators used the law to make sure that slaves could not travel freely, hoping thereby to curb the number of runaway slaves. Furthermore, if a captain hired or allowed a slave to travel on board a ship without the permission of that slave’s owner, his ship could be seized and sold. The law punished whites for selling liquor to blacks or assisting them in travel. The law also punished enslaved blacks for conspiracy against whites or for resisting whites. Several statutes, however, afforded slaves some religious standing, equal to some of the benefits enjoyed by free blacks, and also enabled owners to testify on a slave’s behalf.<sup>19</sup>

Under these laws, some slaves preceded their owners into the Kentucky frontier; clearing the land, building homes, roads, and other structures, and planting and harvesting crops. Other slaves entered Kentucky with their masters and, once settled, performed essentially the same domestic and agricultural tasks.<sup>20</sup> As the white population increased, the black population increased proportionately. At the time of the first federal census in 1790, in Kentucky there were 11,944 African-Americans and 114 of them were free people of color.<sup>21</sup>

### III. MANUMISSION: PATHWAY TO FREEDOM

Manumission was a method whereby enslaved blacks could be emancipated. One of the earliest Kentucky statutes on the issue passed in 1800, providing that the last will of any person 18 years of age or older could emancipate slaves.<sup>22</sup> Slaves could also try to buy their own freedom. Kentucky's economic system of small farms and small slave holdings encouraged a practice of slave leasing. This activity worked to the benefit of slaves. Rental slaves, who were allowed to hire themselves out, might after a number of years save money and eventually buy their freedom.<sup>23</sup>

Just as early as slaves came to Kentucky, some were being manumitted. In 1782, even before Kentucky officially became a state, an enslaved man named Monk Estill helped prevent the destruction, by American Indians, of Estill's Station, his owner's property. Monk attempted to find Captain James Estill to warn him of the attack, and found him near present day Mt. Sterling just as the ambush began. Though Captain Estill was killed, Monk brought his body back to the station. For his bravery, Captain Estill's oldest son freed Monk through a process of "manumission." Monk moved to Fort Boonesboro wherein he became a skilled maker of gunpowder and the father of the first free African-American child to be born in Kentucky.<sup>24</sup>

In 1830, William Chenault's cousin, John Bennet,<sup>25</sup> liberated a female slave named Sally Ann, the wife of Levi Jones and the mother of their four children.<sup>26</sup> Bennet was at some point a slave owner but seemed to have been opposed to slavery in principle. Regardless of his age or condition, a slave in Kentucky could be manumitted provided that his or her master posted sufficient security that the slave would not become a public charge. From 1794 to 1842 this posting of security was optional. Thereafter, and up until 1851, the posting of sufficient security was mandatory.<sup>27</sup> The omission of the bond provision after 1851 can be traced to the requirement that the ex-slaves leave the state. Other states such as Virginia had a certain period within which ex-slaves must leave; Kentucky did not specify such a time period.<sup>28</sup>

The large number of slaves in Kentucky and the decreasing profits of slavery might have encouraged the practice of manumission. As the economic demands for more slaves increased in southern states, both Kentucky and Virginia's slave markets responded to the cotton belt's demands. In 1840, Robert Wickliffe, the largest slave owner in Fayette County, Kentucky, bragged to the Kentucky Legislature that up to 6,000 slaves per year were being sold to southern states from Kentucky.<sup>29</sup> Wickliffe's manumission of some of his slaves, sending them to Liberia, evinces the popularity of the practice. In a letter sent from Liberia, an octoroon woman, Milly—once owned by Wickliffe and who gave birth to a baby sired by Wickliffe's stepson—wrote a long letter thanking her former owners for their benevolence. Milly arrived in Liberia on July 11, 1833, along with 145 other new settlers. According to the ship records, 119 of the passengers were from Kentucky: 16 born free, the rest manumitted.<sup>30</sup>

It was not uncommon for emancipated slaves to leave Kentucky. Upon manumission, most southern states did not allow freed slaves to reside within their borders. In 1691, Virginia enacted a law insisting that no Negro be set free unless the owner paid for his transportation out of the colony.<sup>31</sup> Similarly, starting in 1851, a Kentucky master could free a slave, over sixty-five years old or infirm, but only if he gave the freed slave the means for transportation out of Kentucky and enough money to support the freed slave for one year.<sup>32</sup> During the same period, Louisiana enacted a law requiring emancipated slaves to leave the country within a year. The law required the owner to pay for the freed slave's trip to Africa and for his support upon arrival.<sup>33</sup>

Such statutes tended to discourage manumission. Undoubtedly, had Levi and Sally Ann's story taken place in the 1850's, their manumission would have been unlikely because of the increased financial responsibilities placed on the owners. Between 1830 and 1850, the number of free blacks in Kentucky doubled, increasing from 4,917 to just over 10,000. According to the Federal Census of 1860, however, the number of free blacks stagnated, suggesting that few slaves were manumitted after the laws were toughened in 1851.<sup>34</sup>

While the date of Levi and Sally Ann's union is unknown, marriage between free blacks would not become legal until 1825. Moreover, the law absolutely did not recognize marriages between free blacks and slaves. The progeny of such unions assumed the status of the mother. As a result, many male slaves who achieved financial success by hiring themselves out purchased the freedom of their wives first, preventing their children being born into slavery.<sup>35</sup> Even if one had the means to do so, free persons of color could not purchase the freedom of their friends or extended family. The law provided that "[n]o free negro was capable of acquiring in fee, or holding for any length of time, any slave other than the husband, parent or descendant of such free negro."<sup>36</sup>

The fact that free black owners, such as Jones, did not always emancipate their purchased relatives also proved problematic. Most free blacks purchased their slave relatives with the intent of emancipating them, but the threat of re-enslavement was possible.<sup>37</sup> Few free men could afford to post the sometimes-required bonds to ensure that newly freed slaves would not become wards of the county.<sup>38</sup> The possible fines for free blacks were plentiful; the homes of free families were often subject to raids by patrolmen searching for enslaved blacks illegally visiting their friends and family.<sup>39</sup> Fines were imposed for violators, such as having his or her slaves seized and sold for those slave owners who fell into debt.<sup>40</sup>

### IV: THE NOT SO PRETTY EXISTENCE OF FREE BLACKS IN KENTUCKY

"The liberty of colored free men has not been sufficiently guarded by the laws of the United States, nor any of the separate states."<sup>41</sup>

Around the date of Levi's manumission, Bennet, who was about to move to Missouri, entered into an agreement with

Levi Jones to sell him his own children for 300 dollars, payable in three annual installments, with legal interest from the date of the contract.<sup>42</sup> The contract however, was not committed to writing until sometime after the date of the verbal agreement and the delivery of the children to Jones.<sup>43</sup>

When John Bennet returned to Kentucky in the autumn of 1831, Levi was unable to pay the first installment for the purchase of his children.<sup>44</sup> His financial difficulties were not unique. Because free blacks competed with slaves and white labor, their wages were less than they might otherwise have been. On the other hand, some freemen prospered, holding themselves out as ministers, teachers, barbers and tailors.<sup>45</sup>

Almost a year later, in May of 1832, Bennet's son, Samuel, who still lived in Kentucky, procured from his father a document purporting to be a bill of sale for the four children for the sum of three hundred and thirty-six dollars—the sum then due from Jones according to the terms of the contract.<sup>46</sup> Shortly thereafter, Samuel Bennet abducted Levi's three oldest children and detained them as slaves without Levi's consent.<sup>47</sup>

Free people of color in Kentucky constantly feared kidnapping. Although the state had enacted anti-kidnapping laws, they were scarcely enforced and thus of little use. Kidnapping cases were difficult to prosecute because they often involved interstate travel.<sup>48</sup> Though selling free blacks into slavery became a crime after 1801, it was rumored that the practice continued throughout the antebellum period. As Marion B. Lucas explains, "corrupt patrollers" sold freemen to slave traders who took a policy of asking no questions about the status of the "slaves."<sup>49</sup> Particularly, free blacks who worked along the lower Mississippi were intimidated and forced into slavery.<sup>50</sup>

Levi instituted his case not in a criminal court, but rather in chancery, a court authorized to apply principles of equity as opposed to law. In 1836, Levi filed a bill in Chancery against John and Samuel Bennet. He prayed for a decree upon equitable terms, which would return his children to him as restitution.

In court, free blacks operated from an inferior position to their white counterparts. Freemen did possess some important rights such as the right to trial by jury, the right to challenge jury selections, and the right to offer evidence in their own behalf.<sup>51</sup> In capital cases, however, free blacks could not testify against whites.<sup>52</sup> These limitations did not intimidate Jones. He went full force ahead, "averring that he had offered, and was still willing to pay the full amount of the conventional price."<sup>53</sup> Defendant John Bennet never answered the bill. His son Samuel resisted any decree for relief, insisting that the Chancellor—the judge of the Chancery—had no jurisdiction.<sup>54</sup> He also alleged that:

the terms of the contract of sale to Levi, authorized John Bennet to vacate the sale, in the event of a failure by Levi to make punctual payment of any one of the annual installments of the consideration; and which, as he averred, . . . John Bennet had done by selling the children to Samuel for 336 dollars.<sup>55</sup>

The Chief Justice from the Circuit Court for Madison County thought otherwise. He was of the opinion that Levi was

entitled to relief. In regards to the jurisdiction argument, the court reasoned that:

A court of equity has jurisdiction to enforce a contract for movable property, or to coerce its restoration to its rightful owner, from whom it has been taken, whenever the property is of such a peculiar character that the recovery of damages, in lieu of the specific thing, would be but an inadequate or inappropriate remedy . . . . And there can be no stronger case of that class, than where a parent brings a bill to coerce the restoration of a child that has been abducted from him, and is held in slavery.<sup>56</sup>

The Court found that "the abduction and detention of the children by Samuel Bennet, were unauthorized and tortious."<sup>57</sup>

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The Court further held that Samuel Bennet should "be compelled to pay damages for the wrongful detention, and make restitution of the children, upon receiving the price which his father would have been entitled to receive from Levi, and the accruing interest thereon from the date of the contract in 1830."<sup>58</sup> The

Court declared: "One who has taken away and detained wrongfully the children of a colored man, is liable [to] him, for damages equal to the value of their hire."<sup>59</sup>

The Jones family's peace was short lived. In 1845, just five years after the chancery held that Levi was entitled to the return of his family, two of his children, Betsy, 23, and Emily, 19, along with Betsy's two children, Spicy and Edmund, were in the Woodford Circuit Chancery Circuit Court suing again for their freedom.<sup>60</sup> A 1789 Kentucky statute allowed Jones to bring suit before the court providing that enslaved blacks should receive the same judgment and stand in the same condition with respect to the benefit of clergy as free blacks or mulattoes.<sup>61</sup> According to the petition, they asserted that Jones purchased Emily and Betsy "upon the express consideration that said Emily and Betsy were to be free whenever they should attain the age of twenty-one years as likewise all their children born before that time."<sup>62</sup>

Unfortunately, Levi Jones' children had been levied upon for debts and were about to be sold back into slavery to either Robert Adams or Benjamin Bailey to satisfy the judgments. They prayed to the chancery court for an injunction and a declaration of freedom.<sup>63</sup> The outcome of this prayer is unknown. According to the 1850 Census, Emily and Betsy were living with their mother and father. In fact, Levi had managed to purchase more relatives. The records list a 73-year-old, Anny, residing with the Jones household.<sup>64</sup> Levi, who was then 48, worked as a farmer in Versailles but owned no land.<sup>65</sup> The desire to purchase more of his relatives and the cost associated with doing so had put a strain on his ability to acquire property.

Free blacks in Kentucky walked a thin line between living as freemen and living in bondage. Freemen always had to be prepared to prove their legal status; they had to walk with their "free papers" or face jail time.<sup>66</sup> They lacked the right of privacy; "watchmen" could enter their homes at anytime without a warrant.<sup>67</sup> Moreover, if a free black was found to be loitering or "misbehaving," they could be captured and hired out for up to

three months per instance.<sup>68</sup> The rationale behind the policy was that the sight of free blacks encouraged slaves to seek their own freedom.<sup>69</sup>

Free black children could also be bound out as apprentices if their parents were found to have no visible employment. Although when the Kentucky legislature enacted this law children bonded out had to be provided education, by 1843 the legislature had removed the requirement.<sup>70</sup> Transportation in and out of Kentucky was heavily restricted. In 1818, a state law forbade the migration of free blacks from other states into Kentucky.<sup>71</sup> Railroads frequently refused free blacks passage even with their “free papers.”<sup>72</sup>

## V. ANTI-SLAVERY PRESSURE FROM THE BAPTIST CHURCH

Undoubtedly, slave owners were motivated by a variety of factors—financial, religious, sentimental, moral and ethical—to free slaves. Baptists in Virginia expressed opposition to slavery as early as 1787.<sup>73</sup> This may have influenced Chenault, who was a Baptist from Virginia, to free Jones. A number of the members of Baptist churches, acting independently of the churches, organized an anti-slavery society called the Kentucky Abolition Society.<sup>74</sup> Baptists and slaveholders hotly contested slavery in the Baptist church with emancipating Baptists consistently refusing to commune with slaveholders.<sup>75</sup> It is quite possible that William was at least influenced by the anti-slavery movement in the Baptist church.

Between 1829 and 1859, the Kentucky Colonization Society for Free People of Color helped 658 free blacks leave the state and settle in Liberia.<sup>76</sup> Kentucky’s public opposition to

slavery was carried out primarily through the work of the Kentucky Abolition Society and the Kentucky Colonization Society, the latter a branch of the National American Colonization Society. Founded in 1808, the Kentucky Abolition Society defined African slavery as “a system of oppression pregnant with moral, national and domestic evils, ruinous to national tranquility, honor and enjoyment.”<sup>77</sup> The Kentucky Abolition organized local anti-slavery societies in Kentucky. Eight local societies were reported by 1827.<sup>78</sup>

“The colonization movement enabled influential slaveholding politicians like Henry Clay to favor sending free blacks and manumitted slaves back to Africa, while allowing them to also distance themselves from supporting the principle of immediate abolition.”<sup>79</sup> In addition to helping free blacks leave the country, abolition societies defended free blacks before the law and advocated to “ameliorate the condition of the slaves and to prevent the separation of families.”<sup>80</sup>

## VI. CONCLUSION

In Kentucky, when the state revised its constitution in 1799, free blacks further lost rights. They were “discriminated against and excluded from enjoying key citizenship rights, including being prohibited from voting, holding public office, and serving in the militia and from bearing arms.”<sup>81</sup> The Jones family, suffering from many of these prejudices pronounced by Clay and by the State Constitution, did not leave the country or even their small town. While the Jones family could have fled to the North and its more lenient laws for free people of color, they stood their ground, fought back, and made the best of their complicated existence.

## ENDNOTES

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<sup>1</sup> Henry Clay, An Address; Delivered to the Colonization Society of Kentucky, at Frankfort, December 17, 1829, by the Hon. Henry Clay, at the request of the Board of Managers, *in* 6 AFR. REPOSITORY & COLONIAL J. 1, 12 (1830). The American Colonization Society was an organization that helped in founding Liberia, a colony on the coast of West Africa.

<sup>2</sup> Jones v. Bennet, 39 Ky. (9 Dana) 333 (1840).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 333; 1850 FEDERAL CENSUS, NORTH CENTRAL KENTUCKY: COUNTIES OF ANDERSON, BULLITT, FRANKLIN, NELSON, SHELBY, SPENCER, WASHINGTON AND WOODFORD 389 (Byron Sistler & Assoc., Inc. 1995) (1850) [hereinafter 1850 FEDERAL CENSUS].

<sup>6</sup> Brief of Petitioner, Jones v. Bennet, No. 20784506 (Woodford C.C. Sept. 1, 1845), available at <http://library.uncg.edu/slavery/details.aspx?pid=6375>.

<sup>7</sup> Z. F. SMITH, THE HISTORY OF KENTUCKY 838 (1892).

<sup>8</sup> The History of Estienne Cheneau/Stephen Chenault and His Descendants, [http://www.chenault.org/NoFrames/family\\_history%20rev.htm](http://www.chenault.org/NoFrames/family_history%20rev.htm) (last visited Feb. 28, 2009) [hereinafter History of Estienne Cheneau].

<sup>9</sup> The Library of Virginia, About the Revolutionary War Bounty Warrants, <http://www.lva.lib.va.us/whatwehave/mil/bountyabout.htm> (last visited Feb. 28, 2009).

<sup>10</sup> Kentucky: Secretary of State, Frequently Asked Questions, <http://www.sos.ky.gov/land/nonmilitary/coformations/faq.htm> (last visited Feb. 28, 2009).

<sup>11</sup> Paul Heinegg, Free African Americans of Virginia, North Carolina, South Carolina, Maryland, and Delaware, <http://www.freeafricanamericans.com> (last visited Feb. 28, 2009).

<sup>12</sup> William A. LaBach, Ancestry of William Chenault (1773–1834) (2000), available at <http://members.tripod.com/~labach/chenaula.htm>.

<sup>13</sup> SMITH, *supra* note 7, at 838; *Id.*

<sup>14</sup> WILLIAM ELSEY CONNELLEY & ELLIS MERTON COULTER, HISTORY OF KENTUCKY 75 (Charles Kerr ed., 1922).

<sup>15</sup> 1850 FEDERAL CENSUS, *supra* note 5, at 389.

<sup>16</sup> 1810 FEDERAL CENSUS, MADISON COUNTY, KENTUCKY 204 (1810), available at <http://www.usgarchives.org/ky/madison/census/1810>.

<sup>17</sup> J. Blaine Hudson, *African American Religion in Ante-Bellum Louisville, Kentucky*, 17 GRIOT 43, 43 (1998).

<sup>18</sup> Slavery in America, Kentucky Slave Law Summary and Record, [http://www.slaveryinamerica.org/geography/slave\\_laws\\_KY.htm](http://www.slaveryinamerica.org/geography/slave_laws_KY.htm) (last visited Feb. 28, 2009) [hereinafter Slavery in America].

<sup>19</sup> *Id.*

<sup>20</sup> Hudson, *supra* note 17, at 43.

<sup>21</sup> *Id.*

<sup>22</sup> Slavery in America, *supra* note 18.

## ENDNOTES CONTINUED

- <sup>23</sup> MARION BRUNSON LUCAS, *A HISTORY OF BLACKS IN KENTUCKY: FROM SLAVERY TO SEGREGATION* (1760–1891) 116-17 (2d ed. 2003).
- <sup>24</sup> Kentucky Educational Television, Kentucky Historical Timeline, <http://www.ket.org/underground/timeline/kytime.htm> (last visited Feb. 28, 2009).
- <sup>25</sup> See The History of Estienne Cheneau, *supra* note 8; See also CONNELLEY & COULTER, *supra* note 14, at 75; SMITH, *supra* note 7, at 838. The Chenaults first settled in America around 1700 after coming from Southern France. They were Huguenots and followers of John Calvin. They with about two hundred other Huguenots were granted by the Colonial Government of Virginia a tract of land in Monikin Town, then Powhattan, now Goochland County. The first Chenault settlers in this country were Stephen Chenault and his wife. His son was Hugo; Hugo's son was Felix, who married a Miss Dabney (or D'Aubigne); their son was William, who married Elizabeth Mullins; and their son William, Jr. married Susanna Phelps. A son of William and Susanna, Waller, married Talitha Harris, and they were the parents of Col. Christopher David Chenault. John Bennet was Christopher's cousin and his teacher. John Bennet's son, Samuel, married Elizabeth Chenault, the daughter of William, Jr. and Susanna.
- <sup>26</sup> Jones v. Bennet, 39 Ky. (9 Dana) 333, 333 (1840).
- <sup>27</sup> Benjamin Joseph Klebaner, *American Manumission Laws and the Responsibility for Supporting Slaves*, 63 VA. MAG. OF HIST. & BIOGRAPHY 443, 445 (1955).
- <sup>28</sup> See *id.* at 448 (stating that in Virginia, ex-slaves had 12 months to leave. Other states were stricter. Tennessee required ex-slaves to leave immediately. In Louisiana, the time period for ex-slaves to leave ranged from 1 month in 1830 to 12 months by 1852; but by 1855, it was left up to a jury).
- <sup>29</sup> See T.D. Clark, *The Slave Trade Between Kentucky and the Cotton Kingdom*, 21 MISS. VALLEY HIST. REV. 331-342 (1934).
- <sup>30</sup> Four Letters from Liberia to Kentucky, Milly Crawford on Her Way to Liberia from Lexington, Kentucky, A Letter to Mary Owen Todd Russell Wickliffe (Mar. 10 1833) (on file with the University of Kentucky Special Collections and Archives), available at <http://www.bluegrass.kctcs.edu/LCC/HIS/scraps/liberia.html> (last visited Feb. 28, 2009).
- <sup>31</sup> Klebaner, *supra* note 27, at 449.
- <sup>32</sup> *Id.*
- <sup>33</sup> *Id.*
- <sup>34</sup> LUCAS, *supra* note 23, at 108.
- <sup>35</sup> *Id.* at 109.
- <sup>36</sup> Reed v. Reed, 5 Ky. Op. 408, 409 (1871).
- <sup>37</sup> *Id.* at 114.
- <sup>38</sup> *Id.*
- <sup>39</sup> *Id.* at 114-16.
- <sup>40</sup> *Id.*
- <sup>41</sup> CAROL WILSON, *FREEDOM AT RISK: THE KIDNAPPING OF FREE BLACKS IN AMERICA, 1780–1865* 67 (1994) (quoting *Report on the Slave Trade*, LIBERATOR, June 7, 1834, at 1).
- <sup>42</sup> Jones v. Bennet, 39 Ky. (9 Dana) 333 (1840).
- <sup>43</sup> *Id.*
- <sup>44</sup> Jones, 39 Ky. at 333.
- <sup>45</sup> LUCAS, *supra* note 23, at 108-15.
- <sup>46</sup> Jones, 39 Ky. at 333.
- <sup>47</sup> *Id.*
- <sup>48</sup> WILSON, *supra* note 41, at 67.
- <sup>49</sup> LUCAS, *supra* note 23, at 115.
- <sup>50</sup> *Id.*
- <sup>51</sup> *Id.* at 109.
- <sup>52</sup> *Id.*
- <sup>53</sup> Jones v. Bennet, 39 Ky. (9 Dana) 333, 334 (1840).
- <sup>54</sup> *Id.*
- <sup>55</sup> *Id.*
- <sup>56</sup> *Id.*
- <sup>57</sup> *Id.* at 337.
- <sup>58</sup> *Id.*
- <sup>59</sup> *Id.*
- <sup>60</sup> Brief of Petitioner, *supra* note 6.
- <sup>61</sup> Slavery in America, *supra* note 18.
- <sup>62</sup> Brief of Petitioner, *supra* note 6.
- <sup>63</sup> *Id.*
- <sup>64</sup> 1850 FEDERAL CENSUS, *supra* note 5, at 389.
- <sup>65</sup> *Id.*
- <sup>66</sup> LUCAS, *supra* note 23, at 113.
- <sup>67</sup> *Id.* at 109.
- <sup>68</sup> *Id.*
- <sup>69</sup> Jim Reis, Editorial, *Free Blacks Seen as Threat in 1839*, KY. POST, Jan. 15, 2001, at Section: Editorial.
- <sup>70</sup> LUCAS, *supra* note 23, at 114.
- <sup>71</sup> *Id.* at 115.
- <sup>72</sup> *Id.* at 113.
- <sup>73</sup> William Dudley Nowlin, The Issue of Slavery Emancipation in Early Kentucky Baptist Churches – 1807, [http://www.geocities.com/baptist\\_documents/emancipation.ky.bapt.html](http://www.geocities.com/baptist_documents/emancipation.ky.bapt.html) (last visited Mar. 2, 2009).
- <sup>74</sup> ASA EARL MARTIN, *THE ANTI-SLAVERY MOVEMENT IN KENTUCKY PRIOR TO 1850*, at 40 (Negro Universities Press 1970) (1918).
- <sup>75</sup> *Id.*
- <sup>76</sup> Kentucky Educational Television, Westward Expansion and Development of Abolitionist Thought, <http://www.ket.org/underground/history/westexpansion.htm> (last visited Mar. 2, 2009) [hereinafter Kentucky Educational Television, Westward Expansion].
- <sup>77</sup> *Id.* (quoting *The Apologist*, ABOLITION INTELLIGENCER AND MISSIONARY MAG. 81, 81 (1822)).
- <sup>78</sup> Kentucky Educational Television, Westward Expansion, *supra* note 76; see also Nowlin, *supra* note 73.
- <sup>79</sup> Kentucky Educational Television, Westward Expansion, *supra* note 76.
- <sup>80</sup> MARTIN, *supra* note 74, at 47.
- <sup>81</sup> Dyana Bagby, Free Blacks in Upper Cumberland, <http://www.tntech.edu/publicaffairs/rel/1999/oct99/freeblacks.html> (last visited Mar. 2, 2009).