FLORIDA'S FORGOTTEN EXECUTION

The Strange Case of Celia

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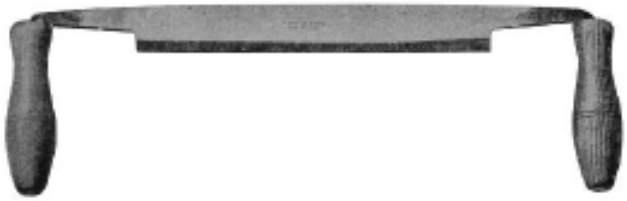

Introduction

If Floridians were asked to name the first woman executed by the State of Florida, those who had even the vaguest idea would likely say either Judi Buenoano, executed March 30, 1998, or Aileen Wuornos, executed October 9, 2002, but they would be wrong. The first woman executed in Florida was named Celia. She had no last name. She was a mulatto slave and her crime was the murder of her white master, who was also her father. She was executed by public hanging on September 22, 1848, and then forgotten. She died defiantly and without the least remorse for her crime. This article describes the facts leading up to and surrounding her execution. It also describes to a limited extent the disgraceful ordeal endured by the eleven remaining members of her family subsequent to her death. It is a cheerless and shameful tale of slavery, patricide, public hangings and other long-forgotten sins that was discovered by accident while these writers were working on one of a series of articles concerning the Orange County, Florida Circuit Court during the nineteenth century. Specifically, the judges were being researched – more specifically, Judge Thomas Douglas. Judge Douglas was the first judge to preside over the circuit court for the Eastern Circuit of Florida, the circuit that included Orange County. The old Orange County court records seemed to reveal him as a rather colorful character (which he was not) during his five-year term on the bench (1846-51). He was nearly always late for court, missed many terms altogether, and never sentenced anyone to jail in Orange County.[1] But in a disturbing case with all the trappings of a Greek tragedy, Judge Douglas became the first judge to sentence a woman to death in the State of Florida. Her name was Celia.

Most of the information contained in this article was obtained from the probate file of Celia's father, and victim, Jacob Bryan.[2] Probate File No. 99B is still a part of the court records of Duval County, Florida, and contains nearly thirty separate documents. These documents were all hand written by many different individuals, and most are barely decipherable, not only because the passage of nearly 160 years has faded the ink, but also because the penmanship of some of the writers was – for lack of a better word – terrible. These writers are indebted to Laurie Hobbs for performing without complaint the tedious task of "translating" the probate file.

Pictured above: Depiction of drawing knife like the one used by Celia to kill Jacob Bryan.

Background

The existing records allow us to begin this story in January of 1830, the month and year that Jacob Bryan and his common law wife, a forty-two-

[1] Judge Douglas frequently ordered that entries be placed in the court minutes laying the blame for his tardiness on the steamboat "Sarah Spalding," which he always rode down the St. Johns River from his home in Jacksonville to the Orange County Circuit Court in Mellonville (present-day Sanford).

[2] *In Re the Estate of Jacob Bryan*, Case No. 47-99B, Probate Court of Duval County, Florida (1847) (hereafter "Bryan Probate File").

year-old slave named Susan, arrived in Florida and settled somewhere near "Goodby Lake," less than ten miles from Jacksonville.[3] Mr. Bryan and Susan had emigrated from Georgia, bringing with them their four small mulatto daughters, Celia (age 12 years), Ann (5 yrs.), Zany (2 yrs.), and Sarah (less than 1 year).[4] Three years after arriving in Florida, Susan gave birth to a son, Dennis. Two years later a second son, Jerry, was born.[5] Thus, Jacob and Susan had six children between them. By December of 1847, their oldest daughter, Celia, had four children of her own, Mary Jane (age 12 yrs.), William (9 yrs.), Damius (7 yrs.) and Francis (4 yrs.). Celia's younger sister, Ann, gave birth to a son, John, in 1839. As explained below, it is impossible to accurately determine the father or fathers of Ann's and Celia's children.

Considering the primitive, isolated lives that Florida farmers endured during the mid-nineteenth century, the Bryan family probably fared as well as most. By the end of 1847, they were growing cotton and corn in fairly large quantities, and they had accumulated eleven head of cattle, one horse and a hog, among other less notable possessions.[6] Apparently content with their circumstances, on November 25, 1842, Jacob Bryan executed a "deed of manumission" whereby he ostensibly freed all the slaves that comprised his family.[7] At the time, his manumitted family members probably totaled eleven. Celia's child, Francis, was born the following year and would not have been included among those freed by their master the previous November.

The Crime

Five years after Jacob Bryan freed his slaves, the unthinkable happened; his oldest daughter, Celia, killed him brutally – she split his head open with a drawing knife.[8] She was thirty years old at the time, and the true reasons for her actions will probably never be known. The first record of the killing came on December 10, 1847, when the following article appeared in a Jacksonville newspaper, THE NEWS:

> On Tuesday morning last information was received in this place that a Mr. Jacob Bryant, who resides about five miles from Jacksonville, had been murdered by a female negro slave of his, and an officer being immediately sent in pursuit, she was arrested on the succeeding day. It appears that he attempted to punish her, and being at the time engaged in making a hoe-handle with a drawing-knife, she at first resisted with the hoe-handle and then used the drawing knife, with which she cut open his skull so as to produce instant death. She is now in jail at this place, awaiting her trial at the next term of the Circuit Court.[9]

Although the article does not include the defendant's name, a later article identified her simply as "Celia" -- slaves did not ordinarily have surnames, and those who did, usually took their master's name.[10] The article does not mention the fact that Jacob Bryan's killer was his daughter. It simply refers to her as … "a female negro slave of his."

Celia's case was heard by Judge Thomas Douglas during the 1848 Spring term of the Circuit Court for the Eastern Circuit of Florida sitting in Jacksonville. At the close of her case, the jury returned a curious verdict: *"Guilty of manslaughter, with a recommendation of clemency to*

[3] *Heirs of Jacob Bryan v. Dennis et al.*, 4 Fla. 445, 450 (1852) and Bryan Probate File.

[4] These ages are reasonably accurate estimates based on the known facts, to-wit: (a) the family arrived in Florida in January, 1830, and (b) on December 7, 1847, the inventory of Jacob Bryan's estate listed their ages as 30, 23, 20 and 18, respectively.

[5] Bryan Probate File.

[6] *Id*.

[7] *Heirs of Jacob Bryan v. Dennis et al.*, at 451.

[8] A drawing knife is a woodworking tool consisting of a blade (usually about 16" long) with a short handle at each end. It is used for shaving rough wooden surfaces. A handle is taken in each hand, and the blade is pulled, i.e., "drawn," over the wood toward the user. One must be "up close and personal" in order to split open a human skull with a drawing knife.

[9] *Murder*, THE NEWS (Jacksonville), December 10, 1847. THE NEWS was published weekly in Jacksonville from 1847 until 1850. THE NEWS lists the victim's surname as "Bryant," and his white relatives used the name Bryant, but he is nearly always referred to in court documents and case reporters as "Bryan." "Bryan" is the name used herein unless "Bryant" appears in a direct quotation.

[10] See *Slave Ancestry Research: Family History & Genealogy*, http://members.aol.com/jmar30/SlaveResearch.

the Executive."[11] Judge Douglas ignored the jury's recommendation, and on May 26, 1848, sentenced Celia to death. It is impossible to determine whether Celia was tried as a slave or a free mulatto, but in either case, Judge Douglas probably had no other choice but the death sentence. She was undoubtedly sentenced under an 1840 territorial statute that provided *"[I]f any slave, free Negro or mulatto, shall be guilty of man-slaughter of any white person … they shall suffer death."*[12] If she had been convicted under an 1828 Act that was amended by the 1840 Act just quoted, Judge Douglas would have had an alternative to the death sentence. The 1828 Act provided that upon conviction for manslaughter, a defendant could "… *suffer death or be whipped not exceeding thirty-nine stripes, and have his or her ears nailed to posts … for one hour or shall have his or her hand burnt with a heated iron in open court, at the discretion of the court."*[13]

A week after Celia's conviction and sentence, the following story appeared in THE NEWS:

> The Circuit Court for Duval County adjourned on Wednesday the 31st ult., after a session of eight days. There was but little business of importance before it, except the two indictments for murder. The jury, in the case of the mulatto woman who killed Jacob Bryan her master, returned a verdict of 'guilty of manslaughter, with a recommendation of clemency to the Executive.' On Friday, the 26th, Judge Douglas pronounced sentence of death upon the prisoner, and, in a feeling and solemn manner called upon her to make her peace with God. Since the passing of the sentence, we understand that a petition for reprieve, with some half a dozen signatures, has been forwarded to the executive, -- and that a counter petition, signed by some seventy or eighty of the most respectable citizens of this county, has also been sent. The woman is sentenced to be hung on Friday the 11th of August.[14]

Celia (or her attorney) must have presented a decent defense, at least in light of the circumstances. The Spring term lasted eight days, and there was little business before the court except two murder cases. One case was Celia's and the prosecutor filed a *nolle prosequi* in the other "… *on the ground of a defective venire for the Grand Jury in Alachua that found the bill."*[15] Accordingly, Celia's trial probably lasted about a week. Unfortunately, the Jacksonville courthouse burned to the ground on May 3, 1901 (along with more than 700 acres of the most developed portion of the city of Jacksonville), leaving the contemporary newspaper accounts of her crime and trial as the only original source.[16] There is no record of an appeal from her conviction.

Less than two weeks before her scheduled hanging, Florida's governor, William D. Moseley, set a new execution date of September 22, 1848, in order to consider the matter of clemency recommended by the jury. The news of his proclamation was published in the Jacksonville newspaper on July 29, 1848.

> The Sheriff of Duval County has handed to us for publication the following proclamation, recently received from the Governor, and which respites the execution of the negro woman Celia, convicted of manslaughter at the last Circuit Court in this county, and sentenced to be hung on the 11th of August next, from that day until noon of

[11] THE NEWS (Jacksonville), June 3, 1848.

[12] An Act to Amend an Act entitled an Act Relating to Crimes and misdemeanors Committed by Slaves, Free Negroes and Mulattoes, No. 36, § 1, Laws of Fla. (1840). As early as September 17, 1822, the Florida Legislature had enacted a statute making any form of manslaughter punishable by death when the defendant was a slave and the victim was white. See An Act for the Punishment of Slaves, for Violations of the Penal Laws of this Territory, § 2, Laws of Fla. (1822). Manslaughter committed by a white person could be either "voluntary" or "involuntary." The punishment for the former was a $1,000 fine or 100 lashes; for the latter, a $400 fine or 50 lashes. See An Act to Define Crimes and Misdemeanors, §§ 12 and 13, Laws of Fla. (1822).

[13] An Act Relating to Crimes and Misdemeanors Committed by Slaves, Free Negroes and Mulattoes, § 38, Laws of Fla. (1828).

[14] THE NEWS (Jacksonville), June 3, 1848.

[15] *Id*.

[16] See Florida History Library, University of Florida, http://web.uflib.ufl.edu/spec/pkyonge/jacksonville/jaxfire2. html, p. 2 (6/9/2003) and HISTORICAL RECORDS SURVEY, STATE ARCHIVES SURVEY, No. 16, DUVAL COUNTY (JACKSONVILLE) 14 (1938).

> the 22nd September next. ***We forbear comment upon these proceedings in this horrible case***, but from the excited state of feeling in the county, and the spirit of exultation which has already manifested itself among the colored people of this place and the neighboring plantations, ***we infer the most dangerous consequences from a false or mistaken clemency***.[17] (emphasis added).

Why would this reporter "forbear comment" about this "horrible case"? Newspaper reporters rarely forbear commenting about anything, especially something horrible. What were the "dangerous consequences" he referred to in the last sentence of the article – a slave uprising? But he is referring to the dangerous consequences of a "false or mistaken clemency," i.e., a clemency that might be granted by the governor. The granting of clemency should not create a slave uprising – anything but. Is he referring to a possibly violent reaction by whites against blacks if clemency was granted? One may safely infer that the writer of THE NEWS article was not in favor of clemency, but it seems unusual because this newspaper was liberal in its politics, unlike its competitor, THE REPUBLICAN, which was pro-slavery, pro-secession, etc. In 1850, barely two years after Celia's execution, Duval County had a total population of 4,539; forty-six percent were slaves.[18] One could reasonably surmise that every white citizen in the county would favor clemency if for no other reason than his or her own safety. So what was going on here?

The governor's proclamation was also published in THE NEWS. It provided in part as follows:

> Whereas, at the last term of the Circuit Court in and for the County of Duval, Celia, a female slave, was convicted of the offense of manslaughter and was sentenced by the Court aforesaid to be executed on Friday, the – day of August next; And whereas it has been represented to me by a portion of the jury who tried the case and by other respectable persons, that the jury recommended said Celia to Executive clemency; And whereas it has also been represented to me by persons of good character and standing that ***the case is one of great hardship in which it would be eminently proper and just for the Executive to interpose the pardoning power***; And whereas also a counter petition signed by sundry respectable citizens of said county has been transmitted to me, remonstrating against the exercise of executive clemency in the case; And whereas under such circumstances the Executive desires time to be informed of the facts and to advise of his final opinion in the premises: –[19] (emphasis added).

Governor Mosely then postponed the date of the execution until September 22, 1848. Thus, thinking she had less than two weeks to live, Celia suddenly received a reprieve of at least forty-two days. She and her family were undoubtedly ecstatic. We are left to guess what the "great hardship" was and why it made the case "eminently proper" for an executive pardon. After reviewing the case, Governor Moseley apparently saw no reason to pardon Celia. He took no further action, and at noon on September 22, 1848, she was hanged.[20] The

[17] THE NEWS (Jacksonville), July 29, 1848.

[18] JULIA FLOYD SMITH, SLAVERY AND PLANTATION GROWTH IN ANTEBELLUM FLORIDA 1821-1860, 25 (1973).

[19] THE NEWS, *supra* note 17. Although the governor's proclamation is dated July 30, 1848, it was published in The News on July 29, 1848, having been "recently received from the Governor" – another history mystery.

[20] As a point of interest, Judge Douglas had been appointed by Governor Moseley on September 27, 1845, to serve as the first circuit judge for Florida's eastern circuit after Florida attained statehood. The state legislature had actually elected federal territorial Judge Isaac H. Bronson to the position, but Judge Bronson declined in expectation of a reappointment to a federal judgeship. Accordingly, Governor Moseley was required to appoint a judge until the legislature met later in the year. He appointed Thomas Douglas, and on December 6, 1845, the Florida Legislature elected Judge Douglas to a full

following day her execution was reported in THE NEWS:

> The Slave Celia, who was convicted at the last term of the Circuit Court in this County of the murder of her master, Mr. Jacob Bryan, an aged planter of this vicinity, suffered the dread penalty of the law, on yesterday, until which time the execution of her sentence had been respited [sic] by the Governor. ***She met her fate without the least remorse for the crime she had committed, and, up to the last moment, denounced her mother as the cause of her death.*** After having hung for an hour, the body was taken down and interred.[21] (emphasis added).

What volumes lie hidden between these lines? What in the world happened? The questions raised by this newspaper article are disturbing. Why would Celia blame her mother for causing her execution? Why would she show no remorse for killing her father so brutally? Why would she kill her father in the first place? – because "*he attempted to punish her,*" as reported earlier in THE NEWS?[22] According to the newspaper, Jacob Bryan was an old man – an "aged planter."[23] Celia was only thirty years old and probably stronger than her father. One might reasonably suppose that she could have fended him off rather easily. Why would Jacob Bryan want to "punish" a thirty-year-old woman in the first place? What was he attempting to punish her with? She obviously did not methodically plan the killing, i.e., manslaughter is a giant step from first-degree murder. The jury's verdict indicates that she very likely committed her crime spontaneously and perhaps with some degree of justification. She split her master/father's head open with a drawing knife, and the jury recommended clemency. Florida's governor proclaimed that "*persons of good character and standing*" had represented to him that "*the case [was] one of great hardship in which it would be eminently proper and just for the Executive to interpose the pardoning power.*"[24] Why? What did Jacob Bryan do to precipitate such an incredibly violentact? Had awful, despicable acts been committed against this mulatto woman to produce such rage in her and such compassion in those who judged her? The record is silent, and it will remain silent. It is unlikely we will ever know why she committed the ultimate crime.

Florida's first Governor: William D. Moseley.

We may also never know exactly how she died. She was hanged for sure, but there are many ways to hang a person – some far more barbaric than others. For centuries the condemned were forced to mount a ladder with a rope around their neck tied to a beam. They were then "turned off," i.e., the ladder was turned aside so that they were suddenly kicking helplessly in mid-air.[25] This so-called "dance of death" could last up to an hour while the prisoner slowly strangled to death by his own weight.[26] A hangman with a heart would

term. See WALTER W. MANLEY II et al., THE SUPREME COURT OF FLORIDA AND ITS PREDECESSOR COURTS, 1821-1917, 110, 126 (1997). See also THOMAS DOUGLAS, AUTOBIOGRAPHY OF THOMAS DOUGLAS, LATE JUDGE OF THE FLORIDA SUPREME COURT, 88, 125 (1856).

[21] THE NEWS (Jacksonville), September 23, 1848.

[22] *Supra* note 9.

[23] Jacob Bryan's slave/wife, Susan (Celia's mother), was sixty years old at the time of her master's/husband's death. See Bryan Probate File.

[24] THE NEWS, *supra* note 19.

[25] GEOFFREY ABBOTT, RACK, ROPE AND RED-HOT PINCERS, 196 (1993).

[26] MICHAEL KERRIGAN, THE INSTRUMENTS OF TORTURE, 174 (2001).

sometimes allow relatives or a friend to yank down on the condemned's dangling legs in order to break his neck and end his suffering.[27] Eventually prisoners were stood on a cart with the noose around their neck, and at the hangman's signal, the cart pulled away and left them swinging, but the cart was no great improvement. By the end of the eighteenth century, many western countries were using the "drop" which, at least in theory, severed the spinal cord and produced a quick demise. Unfortunately, the length of the drop was based upon the weight, age and fitness of the prisoner, and many hangmen could not calculate it properly. If a heavy prisoner dropped too far, the fall could snatch his head off.[28] If he did not drop far enough, he would strangle to death slowly. Generally, a large crowd gathered at public hangings. They were often loud and rancorous; adding to the condemned's misery and humiliation. Hopefully this did not happen at Celia's execution.

Celia's hanging raises more questions about this awful case. What type of gallows was used to hang her; the "drop" variety that hopefully broke her neck, or did she strangle to death slowly? Why was she left hanging for an hour? How long did it take her to die? Were spectators watching her dance of death? What were her family members doing at the time of her execution?

The tragedy of Celia is further enhanced by the lack of official recognition of her execution. Her name is not included in the highly regarded "Espy File" of executions[29] (or any other index of executions these writers have reviewed). The Espy File lists only one Florida execution in 1848 -- a black male slave, Simon Cole, who was hanged in December 1848, three months after Celia's execution.[30] In fact, there seems to be no significant account of Florida's first female execution anywhere except the contemporaneous reports in THE NEWS, and the brief references to them by Professor Daniel Schafer in his scholarly article written for the JOURNAL OF SOCIAL HISTORY in 1993.[31]

In spite of her horrific crime, one cannot help feeling a sense of sorrow for Celia. Obviously her all-white jury had similar feelings. She was thirty years old at the time of her crime, and the mother of four children, ages four through twelve.[32] What happened to them during their mother's ordeal? Were they allowed to visit her during the ten months she languished in jail awaiting her execution? Where were they living? It seems probable that mother and children never saw each other again after the day of Celia's arrest.

It is unlikely that present-day Americans could ever imagine the horrors that were visited upon slaves in the United States prior to emancipation. They were considered less than human, and Florida was a particularly unpleasant place for them. This had not been the case when the Spanish were in charge of Floridians. Under Spanish rule, a slave in Florida was considered *"a victim of fate or war, an unfortunate whom the Almighty created and endowed with a precious soul and a moral personality. Spanish laws protected slaves and gave them rights; courts and judges in St. Augustine enforced these laws."*[33] But when Spain ceded Florida to the United States in 1821, the status of slaves deteriorated quickly. The Territorial Council moved quickly and aggressively to curtail the rights of free blacks and slaves. For example, free blacks were barred from entering Florida from other states; they were disenfranchised, barred from jury service and from testifying against whites in court proceedings. Interracial marriages were prohibited and mulatto children were not allowed to inherit from their parents'

[27] *Id.* and ABBOTT, *supra* note 25 at 198.
[28] ABBOTT, *supra* at 200.
[29] The Espy File (also called the Espy Index) is a database of executions in this country from 1608 to 1987 (14,634 of them). It was compiled by M. Watt Espy and John Oritz Smylka and is considered the most comprehensive list of confirmed executions in the United States. Mr. Espy has collected data on public executions for more than thirty years. See David V. Baker, *A descriptive Profile and Socio-Historical Analysis of Female Executions in the United States: 1632-1997*, 10 WOMEN & CRIMINAL JUSTICE 57, 59 (1999).
[30] Actually, "Cole" was his master's surname. Simon either had no last name or it was unknown.
[31] Daniel L. Schafer, *"A Class of People Neither Freemen nor Slaves": From Spanish to American Race Relations in Florida, 1821-1861*, 27 JOURNAL OF SOCIAL HISTORY 587 (1993). In a 1998 story published on the day Judy Buenoano was executed, the *Orlando Sentinel* cited Professor Shafer's article and the THE NEWS accounts of Celia's execution. See *The Story of Celia – Last Known Woman Executed in Florida*, ORLANDO SENTINEL, March 30, 1998, at A4.
[32] Bryan Probate File.
[33] Schafer, *supra* note 31 at 587.

estates. White men convicted of fornicating with black women could be fined up to $1,000 and have their civil and political rights taken away. Slave owners were required to pay $200 for each slave they emancipated and to post a bond equal to the value of the slave. Freed blacks were required to emigrate permanently from Florida within thirty days of their emancipation. Freedmen who did not leave the state could be arrested and sold back into slavery. The Constitution of 1838 actually prohibited the Florida Legislature from enacting laws that permitted the emancipation of slaves. *"The general assembly shall have no power to pass laws for the emancipation of slaves."*[34] In Jacksonville, **free** blacks were forced to serve on manual labor projects, subjected to a 9:00 P.M. curfew, unless they had a pass from a guardian (free blacks were required to register themselves under a guardian and pay a $10.50 annual guardianship fee), and were forbidden to "congregate" without a permit from the mayor. They were whipped (up to thirty-nine lashes) for misdemeanor offenses. The list of degradations formally imposed on free blacks and slaves by Florida territorial and state law after 1821 is virtually endless and utterly shameful.[35] Florida Supreme Court Justice, Leslie A. Thompson, undoubtedly reflected the opinion of a majority of Floridians when he ruled in 1853 that:

> [T]he superiority of the white or Caucasian race over the African negro, should be ever demonstrated and preserved … [and] the degraded caste should be continually reminded of their inferior position, to keep them in a proper degree of subjection to the authority of the free white citizens. And thus there is an obvious propriety in visiting their offenses with more degrading punishment than is inflicted on the white citizens….[36]

Most of us would quickly condemn this type of blatant racism, and it is obviously easy to do so from the comfort and security of our twenty-first century living rooms, but if we wish to see a period of history as it truly was, we should probably try not to view it as contrasted with our own, whether to its benefit or detriment. We should try to see it as those who lived in it. Most importantly, we should try to remember that in every epoch of all history, most people have been ordinary people, just like most of us, dealing with the daily trials and tribulations of life. Nonetheless, this quote from the bench about the inferior "African negro" tends to rankle.

Celia's Family

Unfortunately, the tragic case of Celia does not end with her defiant and unremorseful death on the gallows. The fate awaiting the eleven remaining members of her family should shock the conscience of the most pitiless among us. If Celia had known what was going to happen to her children, her brothers, her sisters, her nephew, and even her mother, she would never have killed her father. She would have let him do whatever he was doing to her, and persevered. But Celia could not have known the lesson Shakespeare taught us four centuries ago, i.e., it is often better to *"bear those ills we have, than fly to others that we know not of."*[37]

The three most important participants in the events that unfolded during the first two years after Jacob Bryan's death were **William F. Crabtree**, the probate judge;[38] **Thomas Ledwith**, the sheriff of Duval County and curator of the Bryan estate; and **Isaiah D. Hart**, the administrator of the estate. Each of these three individuals was unquestionably sincere and compassionate in all respects. The record reflects that they genuinely tried to help the surviving members of Celia's family, but it was wasted effort.

Celia killed her father on December 6, 1847. The following day Probate Judge William F.

[34] Art. XVI, § 1, Fla. Const. (1838).
[35] See SMITH, *supra* note 18 at 101-10; Schafer, supra note 31 at 591; and note 96, *infra*.
[36] *Luke, a Slave, v. State of Florida*, 5 Fla. 185, 195 (1853).
[37] WILLIAM SHAKESPEARE, THE TRAGEDY OF HAMLET PRINCE OF DENMARK, Act III, scene i.
[38] Judge Crabtree was on the bench from 1845 until 1849. See THOMAS FREDERICK DAVIS, HISTORY OF JACKSONVILLE, FLORIDA, AND VICINITY, 1513 TO 1924, 65 (1924).

Crabtree issued "Letters Curatorship" to Duval County Sheriff Thomas Ledwith, commanding him to take into his custody all of Jacob Bryan's *"personal Estate, goods chattels and effects"* until further order of the court.[39] In his curatorship order, Judge Crabtree appointed Sheriff Ledwith curator, rather than a member of Jacob Bryan's family, because Mr. Bryan had *"died intestate having at the time of his death no relations in said county."*[40] Sadly, Mr. Bryan's common law Negro wife, Susan (age 60), and his eleven remaining children and grandchildren[41] were considered personal property, not "relations," in 1847 Florida. As early as 1828, Florida had enacted, while still a territory, a statute that formally designated slaves as "personal property." Section 6 of "An Act Regulating Conveyances of Real and Personal Property and the Recording Thereof" provided: *"That from and after the passage of this act, slaves shall be deemed, held and taken, as personal property for every purpose whatever."* [42]

As personal property, the members of Jacob Bryan's family were all ostensibly taken into custody pursuant to Judge Crabtree's order. How long they were held in custody is simply not ascertainable with certainty from the record, but at some point, they produced a "deed of emancipation" that initially delayed their incarceration. Professor Schafer has written that "While the trial [of Celia] was underway the widow and children of Jacob Bryan were jailed as slaves even though they held manumission papers …."[43] As demonstrated below, this statement may be incorrect. In an incomplete statement for services submitted by Sheriff Ledwith for his work as curator, the following entry appears: *"For keeping 11 persons from 9th December 1847 to 5th March 1849 at 30 cts …."* There is no final amount entered on the sheriff's bill, but for the reasons explained below, it is extremely unlikely that the deceased's family/slaves were in custody from December, 1847 until March, 1849.[44]

Names	Age	Value
Susan	60	$100.00
Cely	30	$500.00
Mary Jane	12	$300.00
William	9	$200.00
Damius	7	$150.00
Francis	4	$100.00
Ann	23	$500.00
Zany	20	$500.00
Sarah	18	$500.00
Dennis	14	$400.00
Jerry	12	$350.00
John	8	$200.00
Items	**Quantity**	**Value**
Cattle no. of head	11	$44.00
Horses no. of head	1	$75.00
Hoggs	1	$2.00
Cotton no. of 200 lbs. in the seed	200 lbs	$7.00
Corn no. of bushels	60	$35.00
1 Grind Stone	1	$3.00
1 Cross Cut Saw	1	$2.50
1 Rifle Gun	1	$12.00
1 Lot of tools	1	$2.00
1 Brass 8 Day clock	1	$12.00
1 lot of Books	1	0.50

Sheriff Ledwith filed his inventory of the Bryan estate on December 10, 1847. Because of its importance, it is set out here in full:

[Filed December 10, 1847]

An inventory of personal property found on the Estate of Jacob Bryan this 7th day of Dec. 1847. Thomas Ledwith Sheriff & Curator on [sic] of the Estate of Jacob Bryan.

We the subscribers certify that the above is an inventory of the property of Jacob Bryan taken by the order of Thomas Ledwith Curator.

Signed

{John L. Hamilton {C_____
P_____{John M.J. Bowden

The inventory listed twelve Negroes (including Celia) with a total value of $3,800.00. The remainder of the personal property was valued at $197.00. The non-human personal property

[39] Bryan Probate File. When quoting directly from this probate file, the capitalization, grammar, spelling, etc., will appear as in the original. This file somehow survived the great Jacksonville fire of 1901. See HISTORICAL RECORDS SURVEY, *supra* note 16.

[40] *Id.*

[41] The probate file is inconsistent concerning whether Mr. Bryan's slaves, other than his wife, were all his children or whether five of them may have been his grandchildren. Undoubtedly, five of them were the children of two of his daughters, Celia and Ann.

[42] Laws of Fla. (1828).

[43] Schafer, *supra* note 31 at 598.

[44] Sheriff Ledwith's bill also indicated that Jacob Bryan's estate was located at "Goodby Lake," a roundtrip of 14 miles for which he billed $.03 a mile. One of The News articles indicated that the Bryans lived "about five miles from Jacksonville." See text accompanying note 9, *supra*.

consisted of the following: 11 head of cattle, 1 horse, 1 hog, 200 lbs. of cotton "in the seed," 60 bushels of corn, 1 grind stone, 1 cross cut saw, 1 rifle, 1 lot of tools, 1 brass 8-day clock, and 1 lot of books. The inventory also indicated that Celia (spelled "Cely" therein) was thirty years old and had four children, ranging in age from four to twelve years. Celia's sister, Ann (age 23), was listed as having an eight-year-old son, John. Thus, Jacob Bryan and his wife/slave, Susan, undoubtedly had six children between the two of them,[45] but it is impossible to determine the father of Celia's four children and Ann's one child. One probate file document indicates that they were all Jacob Bryan's children – thereby making Mr. Bryan both their father and their grandfather. This document, the "return" filed with the probate court by the estate's administrator on May 9, 1848, states that Jacob Bryan had acknowledged during his lifetime that they were all his "children." Another file document refers to Mr. Bryan's "family"[46] as *"the Mulattos as well as the Negroes."*[47] If Mr. Bryan had fathered Celia's and Ann's children, there would have been no "Negroes" (in the plural) in his estate. There would have been only one "Negro," i.e., his wife Susan. The rest would all have been Mulattos.

At any rate, on December 9, 1847, Judge Crabtree ordered that all the deceased's property, except the slaves, be sold at public auction. Obviously, Judge Crabtree did not consider Celia's family to be slaves at all or they would have been included in the public auction order as personal property belonging to the estate. Accordingly, it seems highly unlikely that they were in custody after December 9, 1847. In fact, they may never have been in custody at all. Celia killed her father only three days prior to Judge Crabtree's order, and other court documents indicate that Sheriff Ledwith in his initial inventory as curator considered them free too.[48]

A week after ordering the "slaveless" public auction of Jacob Bryan's estate, Judge Crabtree ordered the sale stayed, *"… upon security given to the curator for the forthcoming of said property when required, and payment of all costs to this date."*[49] This order may indicate that someone had made an informal, preliminary claim to the property. If so, the informal was about to became formalized, and it undoubtedly filled Celia's family with a horrible dread. On February 15, 1848, Jacob Bryan's white Georgia relatives filed a sworn affidavit with the Duval County probate court claiming the deceased's eleven remaining family members as their personal property.[50] The affidavit was signed by Josiah J. Everett and James Archer. Josiah Everett was the son-in-law of Jacob Bryan's widowed sister, Jane Archer, and would become a driving force behind the efforts to secure the slaves for his family. James Archer was one of the eight children of Jacob Bryan's deceased sister, Mrs. Darcus Archer.

Two weeks after the Bryan heirs' affidavit was filed, Judge Crabtree appointed Isaiah D. Hart administrator of the Bryan estate. There is abundant historical evidence that Isaiah Hart was sympathetic to the plight of all slaves. He was the sixth of twelve children[51] and the sixth person to settle in the area that was to become Jacksonville,

[45] These children were: Celia (age 30), Ann (age 23), Zany (also listed as "Tammy" in the probate file, age 20), Sarah (age 18), Dennis (age 14), and Jerry (age 12). In a case that arose from the Bryan probate matter, the Florida Supreme Court referred to Susan and Jacob Bryan as also having a child named Mary, but this is undoubtedly incorrect. Mary was Celia's daughter. See *Heirs of Jacob Bryan v. Dennis et al.*, at 450.

[46] These writers have found it difficult to make references in this article to the people Mr. Bryan left behind upon his death, i.e., what does one call them? They were obviously his "family," his "survivors," his "heirs," his "descendents," and so on, but that is not what they were in Florida in 1847 (and until emancipation); they were his personal property to do with as he pleased. As far as Florida law was concerned, his "family" consisted only of his white, blood relatives.

[47] This appears in an appraisal of the estate conducted by James A. Plummer and Robert J.H. Pritchard on March 13, 1848 and filed with the probate court. See Bryan Probate File.

[48] In a pleading subsequently filed by the estate's administrator, Isaiah D. Hart, Mr. Hart stated that the "slaves" had never come into his hands because the curator, Thomas Ledwith, had declined to deliver them "… alleging that the said persons were free." See Bryan Probate File.

[49] Judge Crabtree's order to sell the individual items of personal property was dated December 9, 1847, but Sheriff Ledwith's inventory of the property was not filed until the following day, which makes no sense. But the court file is filled with numerous inconsistencies and contradictions. For example, Sheriff Ledwith's statement for his services as curator is dated December 7, 1847, the same day he was appointed curator. As of the date of his bill, he could not have performed any of the services listed in it.

[50] Jacob Bryan's white living heirs were a brother, John Bryan, a sister, Jane Archer, and the eight children of a deceased sister, Mrs. Darcus Archer.

[51] 3 JAMES C. CRAIG, PAPERS, THE JACKSONVILLE HISTORICAL SOCIETY 1 (1954).

having moved there in 1821.[52] In fact, he is credited with being Jacksonville's founder.[53] The free blacks who lived in Jacksonville occupied land belonging to him, called "Negro Hill."[54] He was responsible for the last slave emancipations on record in Duval County, "Jerome, Patty and Susan," who were set free under the terms of his will in 1861.[55] His will also contained provisions for "Amy," to whom he left $2,000.00 cash and many other assets. Amy was without doubt Mr. Hart's mistress, a former slave whom he had purchased at a public auction in 1850 and subsequently emancipated.[56] His son, Ossian Bingley Hart, became the first native-born Floridian to sit on the Florida Supreme Court (1868-1873) and to be elected governor. Ossian apparently shared his father's sympathetic nature toward slaves. In 1859, he defended a slave named Adam, who was charged with murdering a white man, and ultimately obtained a reversal of the defendant's conviction in the Florida Supreme Court. Unfortunately, his client was lynched by a mob shortly after his Supreme Court victory.[57]

Isaiah Hart filed his return for the Bryan estate on May 15, 1848, eleven days before Judge Douglas sentenced Celia to death. His return was based on an appraisal prepared and filed by James A. Plummer and Robert J.H. Pritchard, two "prominent slaveholders with ties to the Spanish era."[58] The appraisal prepared by these two gentlemen did not include the slaves as part of the estate. Messrs. Plummer and Pritchard explained that *"… upon inquiry and the examination of a deed in their possession we are of the opinion … [and] … we have no doubt that they are free."*[59] Isaiah Hart's return valued the estate at $125.25 and included all those items described in Sheriff Ledwith's previously filed inventory except that only 30 bushels of corn were listed; whereas Sheriff Ledwith's earlier inventory had showed 60 bushels. After listing the individual items of personal property, Mr. Hart explained his return and the corn discrepancy as follows:

> I found the above articles in the possession of a collored [sic] family which were acknowledged by the deceased in his life time to be his children and whom he did emancipate during his life time: as will more fully appear by a refference [sic] to the deeds recorded in the clerk's office of Duval County: and I being aware that they were so acknowledged by him and that they were the only family which he had: and at which place he died. ***I have turned over to them his said children, the thirty bushels of corn for them to live upon they having nothing else*** – …

(emphasis added). Thirty bushels of corn and nothing else? – for eleven people to live on? Whether they even had a roof over their heads is questionable. The state had already confiscated their only means of supporting themselves, i.e., 1 grindstone, 1 crosscut saw, 1 rifle, and 1 lot of old tools – not to mention 11 head of cattle and their horse – and left them thirty bushels of corn. This is not an enchanting portrait of our white ancestors.

On February 12, 1849, nine months after Isaiah Hart filed his "slaveless" return of the Bryan estate's property, and five months after Celia was hanged, Jacob Bryan's white relatives, through their attorney, Gregory Yale, filed a petition in the probate court naming Isaiah Hart and Thomas Ledwith as respondents, and demanding the family's inheritance. The petitioners requested **(a)** that Isaiah Hart's return be declared null and void and stricken from the record; **(b)** that he be required to make out a new and "complete" inventory; **(c)**

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[52] WANTON S. WEBB, WEBB'S HISTORICAL, INDUSTRIAL AND BIOGRAPHICAL FLORIDA, PT. I, 116 (1885).
[53] DAVIS, *supra* note 38 at 57.
[54] *Id.* at 94.
[55] *In Re the Estate of Isaiah D. Hart*, Case No. 61-900, Probate Court of Duval County, Florida (1861).
[56] Schafer, *supra*, note 31 at 599.
[57] MANLEY, *supra* note 20 at 222.
[58] Schafer, *supra* note 31 at 598.
[59] Their manumission deed was without question the most important document that Jacob Bryant's slaves had ever possessed, and they were undoubtedly aware of its importance. In fact, after September 17, 1822, any emancipated slave traveling outside the county of his residence without a copy of his manumission deed was subject to incarceration until someone produced the deed and paid the jailor's fees. See "An Act for the Punishment of Slaves, for Violation of the Penal Laws of this Territory, § 15, Laws of Florida (1822).

that a distribution of all the slaves be made to the petitioners; and **(d)** that the court take immediate steps to secure the slaves to the petitioners until a final decision of the court. The Bryan probate case was heating up.

The petition also contained a number of personal allegations directed specifically against Isaiah Hart. For example, the petitioners alleged **(a)** that Hart *"has pretended … that the slaves … are free by virtue of an emancipation made in the lifetime of … Jacob Bryant, and by certain verbal acknowledgements made by … Bryant to Hart;"*[60] **(b)** that *"Hart has permitted the slaves to go at large, as free Negroes, while one or two of the females … are notoriously living in open adultery with white men, contrary to the laws of the State of Florida, and within the knowledge of Hart;"* **(c)** that Hart knew at the time the petitioners consented to his appointment that they claimed the slaves as part of the estate because the emancipation had been issued in violation of Florida law; **(d)** that Hart had *"neglected his duty, and mismanaged [the] estate, as to permit said Negroes to go at large … without reducing them to immediate and absolute possession, or by hiring them out, or distributing them to [the] petitioners;"* and **(e)** that Hart had not manifested a disposition to settle the estate, *"but has thought proper to treat said Negroes as free, … and to permit one of the white men living in open adultery … to take charge of all other property and effects belonging to [the] estate … and also to have in charge said Negroes."* If this final allegation by the Bryan heirs is true, it would indicate that all the slaves had been living with a man named Ephream Taylor, because in his return, dated May 15, 1848, Isaiah Hart had stated that *"… as I was of oppinion [sic] that the articles would not bring more at public sale, I let Ephream Taylor take them all (except the corn as aforesaid) at there [sic] appraised value to wit $125.25."* If Ephream Taylor was actually allowing all the slaves to live with him (as alleged by the Bryan heirs), it makes sense that he would also want their tools and other personal property, and that Hart, as administrator, would want to sell them to him – especially if he could not sell them for any more than $125.25 at a public sale. This arrangement would also save the Bryan heirs the costs of conducting a public sale, but the costs of a public sale were not their concern. They wanted their slaves. At any rate, the heirs' accusations coupled with the allegation in Mr. Hart's return regarding Ephream Taylor make a compelling case that all the slaves had been living with Mr. Taylor (one female intimately) for well over a year.

The heirs' accusations came fourteen months after Sheriff Ledwith was ordered to take into custody all the personal property belonging to the Bryan estate, which ostensibly included all the slaves. Their accusation came nine months after Isaiah Hart indicated he had sold the estate's personal property to Ephraim Taylor. Thus, it does not seem unreasonable to speculate that the slaves had all been living with Mr. Taylor for at least nine months, and probably ever since the death of Jacob Bryan.

The same day that he received the heirs' accusatory petition, Judge Crabtree ordered Isaiah Hart and Sheriff Ledwith to show cause by no later than March 5, 1849 (an adjourned term) why the petitioners should not be granted the relief they requested. He further ordered that a certified copy of the petition and his show cause order *"…be served upon said Thomas Ledwith by the Coroner of this County, (said Ledwith being sheriff) ten (10) days before said fifth day of March next ensuing."* Apparently Judge Crabtree did not think Sheriff Ledwith could validly serve the order on himself.

A hearing was held on March 5, 1849 at which time the respondents filed their responses to the petition, and the petitioners and respondents presented oral argument through their attorneys. Gregory Yale was still representing the petitioners. Philip Fraser, a Jacksonville attorney, represented both respondents. Philip Fraser had moved to

[60] As noted earlier, Jacob Bryan's lawyers and white relatives used the surname "Bryant" when referring to him. Note 9, *supra*.

Jacksonville from Pennsylvania in the 1840s and apparently prospered as an attorney, town mayor, Whig leader and loyalist. In 1863, Abraham Lincoln appointed him to the United States District Court for Florida's Northern District, but he did not hold court until after the war. His brother, Franklin D. Fraser, was a Florida Supreme Court Justice from 1873 until his resignation sixteen months later. Philip Fraser was also a close personal and political associate of Isaiah Hart and his son, Ossian Bingley Hart. As stated above, Ossian Hart became the first native-born Floridian to sit on the Florida Supreme Court (1868-1873) and to be elected governor. As governor, it was Ossian Hart who appointed Philip Fraser's brother, Franklin D. Fraser, to the Florida Supreme Court.[61]

Thomas Ledwith, through his attorney, Mr. Fraser, filed a short demurrer (motion to dismiss) directed to the petition filed by the Bryan heirs, but Isaiah Hart filed a lengthy response. His response clearly reflected his indignation over the allegations leveled against him, but it was drafted more professionally than the petition – probably by his attorney, although Mr. Fraser's signature does not appear on the document. Mr. Hart first alleged that he had not included the slaves in his return because Jacob Bryan had executed a deed of emancipation for the persons listed by Sheriff Ledwith as slaves, and that he (Hart) had prepared the deed himself and recorded it in the Duval County records while he was Clerk of the County Court.[62] Isaiah Hart further alleged that the "slaves" had never come into his hands because the curator, Thomas Ledwith, had declined to deliver them to him, *"…alleging that the said persons were free."* Mr. Hart also alleged that for the court to strike his return, as requested by the petitioners, would create a "manifest injustice," and furthermore, the court had no jurisdiction to strike the return. Mr. Hart denied acting *"in manifest hostility to the rights of the petitioners"* or having neglected his duty or mismanaged the estate. He further responded that even if he admitted that some of the females were living in open adultery with white men, that fact did not authorize him to take them into his possession if they were free, nor did it add any weight to the claims of the petitioners. Isaiah Hart concluded his response with a purely legal argument:

> This respondent further shows unto your honor that … if the allegations in the said petition that the manumission of said persons of color was made in contravention of the laws of this State, which he does not admit [to] be true, the petitioners could take no interest in them, but the said negroes or persons of color would escheat to and become the property of the State of Florida and liable to be taken and sold as such.

Mr. Hart based this argument on an 1829 enactment entitled *"An Act to Prevent the Manumission of Slaves, in Certain Cases, in this Territory."* This Act became effective on November 22, 1829, and contained the following relevant provisions applicable to slaves who were brought into Florida after the Act's effective date:

(1) Anyone who manumitted a slave had to pay a fee (penalty) of two hundred dollars ($200.00) for each slave so freed.

(2) Any manumitted slave had thirty (30) days to get out of Florida, and the slave's owner had to post a bond equal to the slave's value insuring that he left within thirty days.

(3) Any slave manumitted without complying with the Act's requirements was not deemed free, and was subject to being arrested and sold by the county marshal or sheriff.

(d) The money received from the sale of any such slave was paid into the territorial treasury (after the marshal or sheriff deducted five percent (5%) for their services).

Jacob Bryan had not complied with any of the Act's provisions when he freed his slaves on November 25, 1842. Obviously, if he had complied

[61] MANLEY, *supra* note 20 at 220, 227, 229.

[62] Isaiah Hart had been clerk of both the state and federal courts from 1826 until 1845 when Florida entered the union and the court system changed. He had actually issued the manumission deed personally to Jacob Bryant. See WEBB, *supra* note 52 at 119, and Bryan Probate File.

with section 2 of the Act, his family would have had thirty days to get out of the state. If they had failed to leave within thirty days, they could have been arrested and sold at a public auction. By a horrendous stroke of misfortune, Mr. Bryan had brought his slaves *qua* family into the Florida territory in January, 1830, two months after the effective date of the Act.[63] If he had arrived a couple of months sooner, the 1829 Act would have had no relevance. Nonetheless, Isaiah Hart argued that even if Jacob Bryan had not complied with the Act, his white heirs were not entitled to the slaves, because the Act provided that they became the property of the state. Sections 3 and 6 were the controlling provisions of the Act in this regard, and they provided specifically:

> Sec. 3. That any slave or slaves manumitted, contrary to the provisions of this act, ***shall not be deemed free, but shall be liable to be taken up***, under an order from the superior or county courts, in the county in which such slave or slaves shall have been manumitted, which order shall be directed to the marshal or sheriff of the county (emphasis added).

> Sec. 6. That it shall be the duty of the marshal or sheriff, to pay into the treasury of this Territory, all monies arising from the sale of every slave or slaves, taken up and sold under the provisions of this act, after deducting the amount of five per cent. in full for their services.

Of course the petitioners argued that since Bryan had not complied with the Act, and section 3 of the Act provided that such slaves "*shall not be deemed free,*" the slaves simply remained a part of the deceased's estate and descended with the rest of his personal property.

Judge Crabtree obviously gave the question before him a great deal of thought, and he appears to have been a fair-minded jurist. He entered his order just over a week after the hearing. He found that the consequences of failing to comply with the Act were twofold:

> **First**, a pecuniary penalty of $200 to be inflicted upon the emancipator. **Second**, a right accruing thereby to this State to have the persons emancipated contrary to its provisions, taken up by an order of court & Sold and forfeiture of the proceeds of sale to the State Treasury.

Judge Crabtree was clearly not buying the petitioners' argument. Specifically, they had argued that any emancipation contrary to the Act was a nullity that passed no right to anyone, and therefore, the property (slaves) remained vested in the owner, subject to being "taken up" and sold by the state. Judge Crabtree's response was that "*this would be conferring a benefit upon the emancipation where the act clearly intended none ….*" He further explained that:

> The object of the statute was to prevent the increase of [the] free colored population. Now if the act of the party in emancipating his slaves contrary to the provisions of that statute did not divest him of his property in them, but they still continued [as] his slaves: there would be no necessity for further proceedings on the part of the State. [F]or being still slaves, there would be no increase of [the] free population.

He continued by stating that the use of the word "manumitted" in section 3 shows that the slave owner had indeed caused his slaves to be emancipated, "*although in contravention of the statute.*" He reasoned further that the words "*shall*

[63] See *Heirs of Jacob Bryan v. Dennis et al.*, at 450.

not be deemed free" used in section 3 were explained by the words that immediately followed them and were connected to them by the conjunction *"but,"* i.e., the words *"shall be liable to be taken up"* and sold. In other words, Judge Crabtree believed that slaves manumitted contrary to the Act's provisions were emancipated nonetheless, and they were not deemed free only in the sense that they were subject to being seized and sold by the state. Thus, improperly manumitted slaves were free as to all persons, but not the state. Judge Crabtree also convincingly reasoned that improperly manumitted slaves could never be considered as assets in the hands of an estate administrator, because such assets signify property that can be used to pay the estate's debts. Since improperly manumitted slaves are subject to seizure and sale by the state, they could not be used to pay the estate's debts. He stated categorically that they were not the property of the deceased and not therefore assets, *"but they are free persons until the State exerts the right to sell them & reduce them again to bondage"* (emphasis as in original). Anticipating an appeal, he stated that an appellate court could not validly rule that they were slaves belonging to the Bryant estate, because *"… the same court would be compelled to say in the same breathe his estate has no right to them but the right to their value belongs to the State of Florida. The law does nothing in vain – but to say these persons are slaves of the deceased's estate would be nugatory."*[64] The final paragraph of his order reads:

> It is Ordered Adjudged and Decreed: That the Demurrer to said Petition be Sustained. That said Petition be dismissed so far as the same relates to or concerns the colored persons named therein. That said colored persons are hereby declared to be free persons of color so far as said Petitioners are concerned and ought not to be Inventoried or appraised as a part of the Estate of Jacob Bryan deceased. And it is further ordered that said Petitioners pay all the costs of these proceedings to be taxed.

Judge Crabtree's final order undoubtedly filled Jacob Bryan's mulatto descendants with great joy, but if they were joyous, it was short lived. Six days later, the petitioners filed their "Notice for Appeal" to the circuit court.

Circuit Judge Thomas Douglas, who had sentenced Celia to death, was the appellate judge,[65] but as explained below, the case was probably never heard by any judge as an appeal. Unfortunately, there is no existing record of the circuit court case because, as mentioned above, the great fire of May 3, 1901, destroyed the courthouse. However, the records of the probate court were not destroyed. For reasons unknown to these writers, all of the county court records dating back to 1823, escaped the fire.[66]

But notwithstanding the fire, there is still considerable evidence of the events that occurred at the time of, and subsequent to, the case that was heard by Judge Douglas. This evidence appears in the form of two Florida Supreme Court decisions that resulted from the Bryan estate litigation.[67] Most of the factual scenario that follows was gleaned from those two decisions.

Although the probate file unequivocally indicates that Jacob Bryan's heirs appealed Judge Crabtree's order to the circuit court of Duval County, it is more likely that Judge Douglas heard the case as an original action filed by the Bryan heirs. In the Florida Supreme Court decision that arose directly from Judge Douglas's ruling, Justice Albert Gallatin Semmes described the lower court proceedings as being *"… commenced by petition in Chancery, before the Judge of the Circuit court of Duval county for the recovery of certain negroes …"*[68] The "petition in Chancery" was filed by the Bryan heirs on February 21, 1850, and an order was

[64] Judge Crabtree would ultimately be proven wrong regarding his opinion of what an appellate court could or could not do.

[65] *Heirs of Jacob Bryan*, at 445.
[66] See HISTORICAL RECORDS SURVEY, *supra* note 16.
[67] *Heirs of Jacob Bryan* and *Archer vs. Hart and Sammis*, 5 Fla. 234 (1853).
[68] *Heirs of Jacob Bryan* at 450.

issued the following day for the arrest of at least three of the Bryan slaves, Dennis, Mary and Sarah.[69]

Dennis and Sarah were the children of Jacob Bryan and his slave wife, Susan. At the time of their arrests, Dennis was probably fifteen years old; Sarah was probably twenty years old. Mary was Celia's fourteen-year-old daughter.[70] Thus, Mary was the niece of Dennis and Sarah. In May of 1850, Dennis and Mary were released on a $4,000 appearance bond posted by Isaiah Hart and John Sammis.[71] These two minors had been in jail for more than three months. The record is silent concerning why no bond was posted for Sarah. Perhaps it was because she was not a minor. A more likely reason is that the lawyers already suspected the outcome of the case pending before Judge Douglas.

On November 26, 1851, nearly two years after the three slaves were arrested, Judge Douglas ruled that Dennis and his niece, Mary, were free, but that Sarah, who was born outside Florida, was subject to a different interpretation of the law, and must be sold.[72] Sarah was most likely twenty-two years old when she got the bad news. She had been in jail awaiting the bad news for nearly two years. She could not have been fond of her father's legal heirs. The details of Judge Douglas's ruling regarding Sarah are not only explained in the factual scenario and analysis set out in the appeal that was taken from his order, they are also grimly reflected in a newspaper ad that appeared in the January 29, 1852 issue of Jacksonville's FLORIDA REPUBLICAN. Written under the byline *Duval County Sheriff Sale*, the ad informed readers with chilling brevity that *"Sarah, a Mulatto woman about twenty-one years of age, [will be] sold [on the first Monday in February, 1852] in obedience to order of the Circuit Court of Duval county in the matters of the Heirs of Jacob Bryan deceased."*[73]

Accordingly, there can be little doubt that Sarah was sold to the highest bidder at a public auction held in front of the courthouse door in Jacksonville on Monday, February 2, 1852. A seventeen-year-old-Mulatto boy, three oxen, one parcel of land and a "large lumber cart" were sold at the same sale pursuant to a writ of execution[74] – shame on our ancestors. The money Sarah fetched was deposited in the registry of the court.[75] The sale occurred barely two months after Judge Douglas's ruling, and if Dennis and Mary were watching, they must have been terrified. Dennis, who was now 17 or 18 years old, and Mary, age 16, undoubtedly knew that Judge Douglas's order setting them free had already been appealed to the Florida Supreme Court by Jacob Bryan's heirs. They also surely knew that a year earlier his heirs had persuaded the Florida Legislature to enact a perfectly shameful law that is set out here verbatim:

> AN ACT for the relief of the Heirs of Jacob Bryan.
>
> Section 1. *Be it enacted by the Senate and House of Representatives of the State of Florida in General Assembly convened*, That the State of Florida shall, and hereby does release to the heirs of Jacob Bryan, late of Duval County, deceased, all the right, title and interest of said State in and to the Negro slaves of said Bryan heretofore manumitted by him.
>
> Sec. 2. *Be it further enacted*, That the said heirs of the said Bryan, shall succeed to all the rights and interest in and to said slaves as if the said State of Florida never had any claim to the same.[76]

The Florida legislators who unanimously enacted this disgraceful statute, approved by

[69] *Archer v. Hart* at 236.
[70] Their ages can be reasonably calculated by using the age at the time of Thomas Ledwith's inventory, December 10, 1847, and the date of their arrest, February 21, 1850.
[71] The information concerning the release of Dennis and Mary is taken from the *Archer v. Hart* case which provides that the two were released in May, 1852, rather than 1851, but this is certainly a typographical error.
[72] *Heirs of Jacob Bryan* at 449. The parties waived a jury trial.
[73] *Duval county Sheriff Sale*, FLORIDA REPUBLICAN (Jacksonville), Jan. 29, 1852, at p. 4. Sarah was more likely twenty-two years old, not twenty-one.
[74] *Id*.
[75] *Heirs of Jacob Bryan* at 450.
[76] Ch. 456, Laws of Fla. (1850).

Governor Thomas Brown on Christmas Eve, December 24, 1850, were apparently confused about who needed "relief." It was pushed through the legislature by J.W. Bryant, "one of the foremost lawyers in Jacksonville," and a state representative.[77] The legislative journal for the year 1851 indicates that Mr. Bryant introduced the bill by presenting a "memorial" from Josiah J. Everett and Amaziah W. Archer.[78] That Judge Douglas would not be bound by this shameful law is a testament to his character – if not his inclination to follow the law (or maybe he just felt guilty about sentencing Celia to death).

Dennis and Mary may not have understood all the details of what was happening to them and the other members of their disintegrating family, but there is one thing they had to know for sure; Jacob Bryan's heirs were relentless. They intended to collect their inheritance.

Only the Bryan heirs appealed Judge Douglas's order[79] or Sarah's fate might have been stayed pending the outcome of his decision, but it would have been an act of futility. The appellants were represented by J.P. Sanderson in the Florida Supreme Court case. Mr. Sanderson had also represented them in the trial of the case before Judge Douglas. Their original attorney in the trial court, Gregory Yale, had moved to California six months after filing the petition against Isaiah Hart and Thomas Ledwith.[80] J.P. Sanderson began running an ad for his law practice in the FLORIDA REPUBLICAN on January 17, 1850.[81] In 1857 he formed a law partnership in Jacksonville with future Supreme Court Justice William Augustus Forward,[82] and he eventually served as a congressman in the Confederacy.[83]

Dennis and Mary were represented by Felix Livingston and Philip Frazer in the Florida Supreme Court. By all accounts, these two lawyers were considered excellent, and they undoubtedly represented these two poor, illiterate slaves for free. Felix Livingston was actually a county judge while representing Dennis and Mary. He was on the Duval County bench from 1849 until 1855.[84] As early as August 19, 1848, he was running an ad in Jacksonville's THE NEWS: "Will practice in all the Courts of the Eastern Circuit."[85] Prior to that, in 1847, he had served for one year as the first solicitor (prosecutor) assigned to the circuit court for the eastern circuit of Florida.[86]

The Supreme Court that heard the Bryan appeal at the February, 1852 term sitting in Jacksonville was composed of Chief Justice Walker Anderson, Justice Albert Gallatin Semmes, and Justice Leslie Atchinson Thompson. It was the first Supreme Court composed of "independent" justices, i.e., justices who were not also circuit court judges, as had been the case since Florida attained statehood seven years earlier. Court was held in four different cities during the year, and when the justices arrived in Jacksonville, the Bryan heirs' appeal was the only case on their docket.[87]

The Supreme Court's decision first set out the arguments that the parties had made before Judge Douglas. The appellants had argued that **(a)** strict compliance with the Act of 1829 was required because **(i)** it inflicted a penalty ($200) and was therefore a penal statute, and **(ii)** the policy and history of the state was against manumission (hard to argue with this one); **(b)** Jacob Bryan had failed to comply with any of the act's provisions; **(c)** the manumission deed was therefore void and conveyed nothing; **(d)** title to the slaves remained in Jacob

[77] J.W. Bryant may have been related to Jacob Bryan. In 1853, he caught small pox while in Georgia. He became ill after returning to Jacksonville, but by the time his illness was diagnosed, he had caused an epidemic that "was severe and a good many deaths resulted, while those who recovered were in many cases badly pitted." DAVIS, *supra* note 38 at 97. See also note 9, *supra*.

[78] Josiah Everett was the son in law of Jacob Bryan's widowed sister, Jane Archer, and one of the two individuals who had signed the original affidavit in the probate court claiming Jacob Bryan's slaves as the family's personal property. Amaziah W. Archer was one of the eight children of Jacob Bryan's deceased sister, Mrs. Darcus Archer.

[79] *Heirs of Jacob Bryan* at 450.

[80] *Law Notice*, FLORIDA REPUBLICAN (Jacksonville), August 30, 1849.

[81] FLORIDA REPUBLICAN (Jacksonville), November 27, 1851, p. 4.

[82] MANLEY, *supra* note 20 at 170.

[83] *Id.* at 223.

[84] DAVIS, *supra* note 38 at 65.

[85] THE NEWS (Jacksonville), August 19, 1848).

[86] H. FRANKLIN ROBBINS, JR. and STEVEN G. MASON, "A RETROSPECTIVE LOOK AT THE PROSECUTORS OF THE ORANGE COUNTY CIRCUIT CRIMINAL COURT BETWEEN 1847 AND 1884, 98 The Briefs 4 (2001).

[87] MANLEY, *supra* note 20 at 154.

Bryan's estate until the state enforced its rights; and **(e)** the state had relinquished all its rights to the Bryan heirs under the statute enacted on December 24, 1850.

Messrs. Livingston and Frazer argued on behalf of Dennis and Mary that **(a)** if Bryan's manumission deed failed to comply with the Act of 1829, it only created a forfeiture to the State of Florida, who could proceed (or not proceed) against the slaves in the manner set out in the statute; **(b)** the Act of 1829 was a penal statute and in derogation of the common law and should therefore be strictly construed and "not extended further than the case requires"; **(c)** Dennis and Mary were born in Florida and were not subject to the terms of the Act of 1929;[88] **(d)** the Act of 1829 was repealed by an 1842 law that was enacted prior to the execution of the manumission deed; **(e)** the deceased had a common law right to emancipate his slaves; and **(f)** the state's right to the slaves was not a right that could be assigned or *released* as the state had attempted to do via the Act of 1850, because **(i)** Bryan's heirs had neither been in possession nor had any legal interest in the slaves when the Act of 1850 was passed, **(ii)** there was no privity between the releasor (the state) and the releasee (the Bryan heirs), and **(iii)** the state's right to the slaves was a "chose in action" which is not transferable by release unless the transferee is the person against whom the remedy existed.

Justice Albert Gallatin Semmes wrote the Court's decision. Justice Semmes had graduated from the University of Georgia and was appointed solicitor general for Georgia's southern circuit in 1834, an office he held until he moved to Florida in 1837.[89] He has been described as follows:

> Albert developed a reputation as a 'moralist.' He was a man with the 'fear of God' before his eyes, who acted primarily based upon his conservative religious principles in determining what was just and who was 'diligent in the pursuit of that knowledge which is most useful to society.'[90]

Justice Semmes sat on the last Florida Supreme Court whose members were elected by the Florida Legislature. When popular elections began in 1853, he was voted out of office and moved to New Orleans, having served just over two years on Florida's highest court.[91]

Justice Semmes set the tone of his opinion in the very first sentence. One senses immediately how he is going to rule. His opinion begins: *"The proceedings in this cause, **somewhat informal and novel in their character**, were commenced by petition in Chancery …"*[92] He does not explain, so one is left to wonder, how he could characterize patricide, a public hanging and the buying and selling of human beings as "informal and novel."

Justice Semmes made short work of the arguments raised by Messrs. Livingston and Frazer on behalf of Dennis and Mary. In fact, he admonished them for even representing the two slaves in the first place. He began the legal portion of the decision by stating that the repealing clause of the Act of 1842, section 9, *"is restricted to laws in relation to 'free Negroes and free mulattoes;' the act of 1829 is in reference to slaves."*[93] Since Dennis and Mary had never been "free" Negroes or mulattoes (in his opinion), they did not fall within the repealing clause of the Act of 1842.

Justice Semmes had to do a little dancing to get around the fact that Dennis and Mary were born in Florida, because the first paragraph of the Act of 1829 provided in unequivocal terms that it only applied to *"… slaves **brought into this Territory after the passage of this act**…"* (emphasis added). He wrote that although Dennis and Mary did not fall within the letter of the law they were clearly

[88] The first paragraph of the Act provided in unequivocal terms that it only applied to *"… slaves **brought into this Territory after the passage of this act**…"* (emphasis added).
[89] MANLEY, *supra* at 145.
[90] FLORIDIAN (Tallahassee), February 8, 1851, quoted in MANLEY, *supra* at 145.
[91] MANLEY, *supra* note 20 at 146.
[92] *Heirs of Jacob Bryan* at 450.
[93] *Heirs of Jacob Bryan* at 452.

within its spirit, because laws relating to the public welfare could be enlarged or restrained so as to *"repress the mischief [free blacks] and advance the remedy for which they were written."*[94] Justice Semmes view of the law certainly made the legislature's job much easier. He continued by explaining how Florida's policy had always been opposed to free blacks living within its borders.

> The conviction upon the public mind is settled and unalterable as to the evil necessarily attendant upon this class of population, ***and although treated by our laws humanely***, they have ever been regarded with a distrust bordering on apprehension – a class of people who are neither freemen nor slaves, their presence at all times deleterious and often dangerous to the public welfare. (emphasis added).[95]

He was definitely correct that state policy had always been against free blacks, but for a Florida Supreme Court justice to state in 1852, without squinting (perhaps he did squint), that blacks were treated humanely by Florida laws is truly puzzling. Was this the way most people thought at the time? By 1852, Florida was awash with laws that treated blacks, both free and enslaved, anything but humanely. These laws were amended, repealed and rewritten constantly with greater restrictions repeatedly imposed on free blacks and slaves.[96]

Justice Semmes concluded his explanation of why Dennis and Mary must be included within the ambit of the 1829 act, notwithstanding its express terms excluded them, by stating:

> If we construe this law so as to restrict its application to slaves brought into the State, and not include their descendants within its provisions, we at once lose sight of the whole policy of the law, and entail upon the State an evil of the most dangerous character, and which it is manifest it was the design of the Legislature to suppress.[97]

The fact that the law clearly restricted its application to "slaves brought into the state" was not a problem for Justice Semmes. Two other Florida judges had interpreted the law (1846-1851) differently, i.e., Judge William F. Crabtree and Judge Thomas Douglas. Judge Douglas had sat on the Florida Supreme Court for five years before Judge Semmes' term, and he was elected to a second term after Justice Semmes was voted off the court in 1853.[98]

After deftly disposing of, or ignoring, the other issues raised by the appellees, Justice Semmes, speaking for all three members of the court, inserted a slighting and unnecessary statement as the final paragraph of the court's opinion:

> Before the passage of this act for their relief [the Act of 1850] the appellants [the Bryan heirs] had the right to reduce this property [Dennis and Mary] to possession, and since its passage, their right of possession and right of property is [sic] paramount and complete. And we do not understand the necessity that existed of instituting the proceedings in this case in

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[94] *Id.* at 453.
[95] *Id.* at 454.
[96] As a few examples, see: **(a)** An Act for the Punishment of Slaves for Violations of the Penal Laws of this Territory (1822); **(b)** An Act Concerning Slaves (1824); **(c)** An Act to Prevent the Future Migration of Free Negroes or Mulattoes to this Territory (1827); **(d)** An Act Regulating Slaves and Prescribing Their Punishment in Certain Cases (1827); **(e)** An Act Concerning Slaves, Free Negroes and Mulattoes (1828); **(f)** An Act Relating to Crimes and Misdemeanors Committed by Slaves, Free Negroes and Mulattoes (1828); **(g)** An Act to Prevent the Manumission of Slaves, in Certain Cases in this Territory (1829); **(h)** An Act Concerning the Hireing [sic] of Slaves (1831); **(i)** An Act to Amend an Act Relating to Crimes and Misdemeanors Committed by Slaves, Free Negroes and Mulattoes (1832); **(j)** An Act in Relation to Trading with Slaves (1834); **(k)** An Act Respecting the Hostile Negroes and Mulattoes in the Seminole Nation (1837); **(l)** An Act to Repeal an Act Respecting the Hostile Negroes and Mulattoes in the Seminole Nation (1837); **(m)** An Act to Amend the Several Acts in Relation to Slaves, Free Negroes and Mulattoes (1840); **(n)** An Act to Amend an Act Relating to Crimes and Misdemeanors Committed by Slaves, Free Negroes and Mulattoes (1840); **(o)** An Act to Prevent Jailors from Releasing Runaway Negroes until the Conditions therein Expressed are Complied with (1843); **(p)** An Act to Prevent the Future Migration of Free Negroes or Mulattoes to this Territory (1842; **(q)** An Act to Repeal an Act Entitled "An Act to Prevent the Future Migration of Free Negroes or Mulattoes to this Territory" (1843); **(r)** An Act to Amend the Several Acts Heretofore Passed, Relative to the Migration of Free Persons of Color into this State, so far as Relates to the Island of Key West (1847).
[97] *Heirs of Jacob Bryan* at 454.
[98] MANLEY, *supra* note 20 at 123.

> their behalf, or of invoking in any way the action of the Circuit Court in asserting their rights over their property.[99]

The final sentence of this decision is tantamount to a slap in the face to anyone who disagreed with this court's opinion. It seems to reflect the court's disdain for anyone who might even consider assisting a lowly slave. It is insulting to the lawyers, the lower court judges, especially Judge Douglas, and it is most of all insulting to Dennis and Mary. If they could have read the court's words, they would have known that from the beginning they had never had a chance of being freed. The lawyers who had tried to help them had not only been unsuccessful, but the Florida Supreme Court had now admonished those lawyers for even trying to help them.

Thus, Judge Douglas's order freeing Dennis and Mary was reversed by the Florida Supreme Court at its February, 1852 term sitting in Jacksonville. Dennis had not been out of jail a year when he received word of the ruling. Several days later he "absconded," and a year later he was still a fugitive.[100] He was apparently never heard from again.

When the Bryan heirs learned that Dennis had fled the area, they filed suit in one of their names, Amaziah Archer, to collect the appearance bond posted by Isaiah Hart and John Sammis. Messrs. Hart and Sammis were probably not too worried about the claim against them, because the bond had required Dennis to appear before the circuit court from time to time as required, and he had appeared as required. When Judge Douglas entered his order declaring that Dennis and Mary were free, he also ruled that *"the bond heretofore given for their appearance in this cause, and executed by Isaiah D. Hart and John S. Sammis, be discharged and cancelled."*[101] Moreover, when the Bryan heirs appealed Judge Douglas's order, they appealed only that portion of the judgment *"as declares said persons of color, Dennis and Mary, free."*[102]

Messrs. Hart and Sammis were represented by four attorneys in the trial court, Samuel Spencer, J. McRobert Baker, Philip Frazer and Felix Livingston.[103] John P. Sanderson and James W. Bryant[104] represented Amaziah Archer. The record does not reflect who the judge was, but it was unquestionably Judge Douglas, because he continued to serve on the circuit court for east Florida until his election to the "independent" Florida Supreme Court, where he began serving in 1854.[105] In November, 1852, Judge Douglas ruled in favor of Hart and Sammis, and in their unrelenting mode, the Bryan heirs once again appealed to the Florida Supreme Court.

John P. Sanderson represented the appellants on appeal. G.W. Call and McQueen McIntosh represented the two attorney appellees. The court that now heard the appeal from Judge Douglas's order was the same court that had heard the appeal from his order freeing Dennis and Mary. The result was the same as before, reversal, except this time it was Justice Leslie Atchinson Thompson who authored the opinion. Justice Thompson had a reputation for legal scholarship, and had published the first digest of Florida laws in 1847.[106] He was also the justice who wrote about the inferiority of the "African negro" and how they should always receive more degrading punishment than white people who commit the same crime.[107]

In his ruling, Justice Thompson wrote that bonds, such as the one executed by Hart and Sammis, rarely, if ever, contained provisions that covered the occurrence of an appeal, but that the law provided for such omissions. He stated that although the appeal was from only that part of the circuit court judgment that declared Dennis and Mary free, it "*carried with it all that portion of the*

[99] *Heirs of Jacob Bryan* at 456.
[100] *Archer v. Hart* at 250.
[101] *Id.* at 238.
[102] *Id.* at 239.
[103] *Id.* at 236.
[104] See text accompanying note 77, *supra*.
[105] MANLEY, supra note 20 at 126, quoting JOSEPH A. BOYD and RANDALL O. REDER, A HISTORY OF THE SUP-REME COURT OF FLORIDA 1027 (1983).
[106] MANLEY, *supra* note 20 at 147-48.
[107] See note 36, *supra*.

decree which related to Dennis and Mary, and their condition," and that the part of the order dealing with the cancellation and discharge of the bond *"was but the consequence of the declaration that they were free; it was ancillary thereto and dependent upon it…."*[108] In sum, Justice Thompson ruled that as soon as the appeal was filed, the order canceling the bond was held in abeyance, i.e., superseded, just as the order freeing Dennis and Mary was held in abeyance, until the Supreme Court ruled.[109] If his decision was not favorable to the appellees, at least it was not patronizing. Nonetheless, Judge Douglas's ruling was reversed, and Isaiah Hart and John Sammis were ultimately required to pay the Bryan heirs the sum of $900.00 for the missing Dennis.[110]

Before Jacob Bryan's death, his family had consisted of thirteen members. The available records clearly reveal the fate of four of these members. Jacob was killed by Celia; Celia was hanged; Sarah was sold; and Dennis ran away, but what happened to the rest? There are nine individuals unaccounted for. Any attempt by these writers to determine what happened to them inevitably evolves into little more than speculation. Nonetheless, the fate of Mary is probably the easiest to consider. Since she was released under bond at the same time as her uncle Dennis, and since only Dennis is named as absconding after the Florida Supreme Court reversed Judge Douglas's order freeing the two of them, it seems highly likely that she was taken by the Bryan heirs in February or March of 1852. She was around sixteen years old at the time. Thereafter, the Bryan heirs either kept her or sold her at a private sale, because there appears to be no evidence that she was sold publicly like her aunt Sarah.

The fates of the remaining eight members of Jacob Bryan's family are far less certain. Judge Douglas had ruled in the original circuit court action that Sarah must be sold because she was born outside the state of Florida. While it is certainly true that Sarah was not born in Florida – she was probably less than a year old when Jacob and Susan arrived from Georgia in January, 1830 – it is equally true that Ann and Zany were also born outside the state. Why were they not included in Judge Douglas's order? In fact, why did Judge Douglas's order deal with only three members of Jacob Bryan's family instead of all eleven?

Professor Daniel Schafer of the University of North Florida has written that a few months after judge Crabtree entered his order (March 14, 1849) in the probate court, *"… a census official found the Bryan family living near Jacksonville,"*[111] but he fails to provide a reference note for this statement. If they were living near Jacksonville in mid-1849, it seems likely they would all have been named in the suit filed in Judge Douglas's court on February 21, 1850. In fact, there is some indication that they may all have been named in the suit. For example, in the appeal from Judge Douglas's order freeing Dennis and Mary, the Florida Supreme Court noted that "… process was issued against these negroes, and three of them, Dennis, Mary and Sarah … were taken into custody by the Sheriff of the county."[112] This statement implies that process was issued against more negroes than just Dennis, Mary and Sarah. If that was the case, then obviously the sheriff was unable to take the others into custody for some reason. In addition, in the appeal from Judge Douglas's order regarding the appearance bond posted by Messrs. Hart and Sammis, the Supreme Court stated that the Sheriff of Duval County "… *caused to be arrested sundry persons of color to wit: a boy named Dennis Bryan, also a girl called Mary Bryan, said colored persons,* ***and others being alleged in said petition to be slaves*** *and the property of said petitioners …"* (emphasis added).[113] The word "others" obviously implies that there were slaves named in the petition other than Dennis, Mary and Sarah.

If the other slaves were all named in the petition filed by the Bryan heirs, why were they not arrested like Dennis, Mary and Sarah? Perhaps they voluntarily went with the Bryan heirs rather than face incarceration for some unknown period of time. They also could have fled the area with

[108] *Archer v. Hart* at 256.
[109] These problems are controlled today by Rule 9.310 of the Florida Rules of Appellate Procedure.
[110] *Archer v. Hart* at 240.
[111] Schafer, *supra* note 31 at 598.
[112] *Heirs of Jacob Bryan* at 450.
[113] *Archer v. Hart* at 234.

Ephraim Taylor – they were all living with him on February 12, 1849, a year before the suit that led to the arrest of Dennis, Mary and Sarah.

Professor Schafer also asserts in a footnote to his article that the other slaves "disappeared."[114] He cites the January 1, 1851 issue of THE FLORIDA REPUBLICAN as the basis for this assertion, but the citation does not seem to support the assertion. January 1, 1851 fell on a Wednesday, but THE FLORIDA REPUBLICAN was only published on Thursdays. Moreover, no such article could be found by these writers in any edition of the newspaper for several weeks before and after January 1, 1851.

There is also the possibility that the remaining members of Jacob Bryan's family found refuge among the Seminole Indians. For many years, the Seminoles had welcomed runaway slaves. They respected them as both skilled farmers and warriors. Blacks who lived and fought with the Seminoles were called "Negro Indians." There were still a few hundred Indians and their black allies throughout much of the 1850's.[115] But there is no real evidence that the remaining members of Celia's family joined the Seminoles, and their fate will undoubtedly remain a mystery.

CONCLUSION

Anyone reading the record of the events described above can hardly help noticing two matters that stand out from the rest of the sad tale. First is the fact that from the beginning of their ordeal Celia and her family never had a chance of receiving even minimal justice – at least not in the sense of a free white person's justice. They were almost totally helpless. Moreover, as if their helplessness were not enough, the two most powerful institutions in the state, the Florida Legislature and the Florida Supreme Court, seemed as determined as the Bryan heirs that Celia's family would not receive a modicum of justice. Because of the time, place and circumstances of the incident, Celia herself never had a chance for anything other than a death sentence. Regardless of the circumstances that may have offered some justification for the killing, her execution was inevitable. Her family likewise never had a chance of gaining their freedom. As blacks, they were in a no-win situation. In spite of the commendable efforts of a number of decent white men, they simply never had a chance.

Second is the sad reality that the Bryan heirs never once considered the fact that their deceased relative had actually wanted his slaves freed. In fact, at the time of his death, Jacob Bryan undoubtedly believed that he had freed his entire slave family in November, 1842.[116] But instead of carrying out the wishes of their dead relative, wishes that were obvious, they did everything in their power (and then some) to thwart his will. If they had loved him, they would have tried to insure that his property was dispersed according to his wishes. Instead, they appear as grasping, greedy and relentless individuals, and they have left an indelible record of these attributes.

One is left wondering how many times incidents similar to Celia's, and others far more horrible, hidden by time, occurred prior to emancipation. Dr. Livingston was surely correct in remarking that slavery was "the open sore of the world."[117]

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[114] Schafer, supra note 31 at 607, n. 54.

[115] See JIM ROBINSON and MARK LEWIS, FLASHBACKS, THE STORY OF CENTRAL FLORIDA'S PAST, 8,10-12,23,26 (1995); and CHARLTON W. TEBEAU, A HISTORY OF FLORIDA, 151,159-60 (1971).

[116] *Supra* note 7.

[117] http://tanzania-telegraph.blogspot.com/2009/08/open-sore-of-world.html