Henry Bemsley and others
against
George Wales

} Petition for
} Trespass

The Defendant in this cause moves the Court for a new trial

1st because the Verdict is against the evidence in the cause

2dly because the Verdict is against the weight of the testimony in the cause

3dly because the Verdict is ~~against~~ against the express directions of the Court

E H Chambers
Atty for Deft

filed 16 May 1818.

88 Mr. Tiers

May 1818.

Gr. Henry Hamsley & her children

vs

George Walls

Petitioners Cost

Comth found Cost 1. Trial $24..57⅓.
bond of appeals Cost — 13.78⅓.

2d. time in Comth Court

68.. 1353.
Crim . . 49
Theft . . 357
Atty . . 200
1953 = $32.55
Jury fee — — — 1.60
Witness . . . 4.00

$38.15
66.45

Henry Hamsley Jr

George Walls

Jerry Impannelled Sworn

Henry Storey Foreman 1.

William Wright 2

Roderick Brinkerson 3.

George McGinnis 4

N. Mead 5

Thomas Dawson 6

John W. Emery 7

R. E. Clayton 8

Horatio Scrivener 9.

Jonathan Davis 10

Wm R Stuart 11

Moses Merriweth 12

Mary E Nicholson

Jane
Jr
Henry Flory

Jane

Clayton Continued
Captain Twitt
old Wing

Mr Murphey
Jesse Capers or above

Jno Clayton
Clayton

Jno Carmichael

Henry Hensley & others

vs

George Wallis

At the trial of this cause the Plaintiff to support the issue joined on their parts produced a witness Greenbury Griffith by whom they proved that he went down to Sea of Court on Board the Boat of one Captain ~~Jeat~~ James Wood, that he remained there till end of the Siege that during the time he was there before the end of the Siege he was impressed on Board the Baltimore Galley where he remained till the end of the Siege. & then returned on Board of Great Vessel that after the Siege was ended the, ~~Bay Staff~~ persons who had small vessels there were ~~al~~ engaged in collecting plunder, & heard many others that they ~~before he sailed for~~ night before Sailed left port & Boats they brought on Board a Black woman whom he saw when he first went down ~~[illegible]~~ at Gosport that he kept a Table where he ~~sold~~ sold for family other liquors Beer & other small articles that after

The York Town was taken & the American became possessed
of the York Side ~~[illegible]~~ the Troops moved over
there he says the said woman engaged in the same
kind of Traffic for two or three weeks, that in
~~the day~~ it was a dark night some days or two previous
to Sweat taking York that the woman was brought
on Board — that when she was brought on Board
she was in great distress Screaming & cried said to
Sweat who persuaded for a small sum of Money that
she was a free woman & a white Servant —
that Sweat said that she should be free still &
that he would take her as his wife that the said
Sweat — did take her into the Cabin with him & she
kept with him in his bed that she was brought
into Maryland. It was admitted by the Defendants
Counsel that the following was delivered in the
female line from the aforesaid woman who was called
Jack the defendant then produced a Bill of
Sale by which he proved that he went down
to York — Got there after the end of the Siege that

when he was entering the harbour in his schooner he
passed rapidly by Sloads schooner which he knew that
Jas Sloat was in. the witness Griffin was a black
woman or negro — that he claimed Lane & the same
following he saw a ~~woman~~ black woman in a
piece of woods near Geders Point — that when the
saw the witness she fled & the witness pursued the
woman that he — that upon coming up to and the
woman to be the same woman whom the said Jas
on board of Sloads schooner at York. ~~at the~~
~~first time the said Jas Lane was on board~~
~~of Sloads schooner~~ the defendants counsel then
proposed to enter into the declarations of Jas Sloat
made at that time in order to prove upon the own
confession that he was not spoken — ~~but the~~ the counsel
for the Petitioner objected to testimony — but the ~~Plaintiff~~
permitted the testimony to go the jury ~~which he~~ to which
the ~~def~~ Plaintiff objected prayed the court to sign
this their Bill of exceptions —

W. V. Eale
Lud. Purnell

Hemsley
vs
Walls

Bill of Exceptions

Maryland ss. The State of Maryland

To the Chief Justice and Associate Justices of Queen Ann's County Court Greeting: Whereas the Court of Appeals being lately certified of the Record and proceedings in a certain petition for freedom, which was in the County Court of Queen Ann's aforesaid between Henry Hemsley, Susan Hemsley, Juliana Hemsley and Priscilla Hemsley, Petitioners, and George Walles, Respondent, in which said plea you rendered Judgment against the said George Walles, from which said Judgment so rendered the aforesaid George Walles appealed unto the said Court of Appeals, and the said Court of Appeals having duly examined the record and proceedings aforesaid in the premises aforesaid at Easton, on the first Monday of June last did reverse the Judgment aforesaid by you rendered, as to the Opinion and direction by you given to the Jury, as stated in the first bill of exception, in the record and proceedings certified - and therefore there is manifest error in the rendition of that Judgment, Wherefore for the causes aforesaid appearing to the said Court of Appeals, and agreeably to the Act of Assembly in such case made and provided, the plea aforesaid with the record and proceedings therein certified unto you they remit, that in that plea, with that speed which of right, and according to law you may proceed therein, in the same manner as if no trial had taken place, or any Appeal had been prosecuted, any thing in the record and proceedings aforesaid heretofore certified to the contrary notwithstanding. Witness the Honorable Jeremiah T. Chase Esquire, Chief Judge of our said Court of Appeals the 2nd day of June 1817. Issued this 14th day of June 1817.

James Parrott Clk:

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Maryland, Talbot County, to wit

At a Court of Appeals holden for the Eastern Shore of the State aforesaid, at Easton, in Talbot County, on the first Monday of June being the second day of the same month in the year of our Lord eighteen hundred and seventeen, before the said State's Judges duly authorised and assigned to preside in the same —

Were Present

Jeremiah T. Chase, Esquire, Chief Judge.
John Buchanan
John Johnson —
Richard T. Earle —
William B. Martin &
Walter Dorsey —

The Honble — Esquires, Judges

James Clayland, Esquire Sheriff. James Parrott Clk.

Among others were the following proceedings to wit

George Walls. —
against
Henry Hemsley. —
Susan Hemsley. —
Juliana Hemsley &
Priscilla Hemsley.

Be it Remembered, that on the last Monday of May eighteen hundred and sixteen, the Chief Justice & Associate Justices of Queen Ann's County Court, in pursuance of the Act of Assembly in such case made and provided, transmit to the Court of Appeals here, the record and proceedings of a petition for freedom which was lately depending before them in the said County Court between Henry Hemsley, Susan Hemsley, Juliana Hemsley & Priscilla Hemsley, Petitioners, and George Walls, Respondent, and wherein the said County Court gave Judgment for the said Henry Hemsley Susan Hemsley, Juliana Hemsley & Priscilla Hemsley against the said George Walls and from which said Judgment the said

George Walls prayed an appeal to the Court of appeals here, the tenor of which said Record & proceedings is in form following, viz.

Maryland, Queen Anne's County, to wit.

At a County Court of the second Judicial District of the State of Maryland, begun and held at Centreville, in and for Queen Anne's County, aforesaid, on the first Monday of May it being the sixth day of the same month, in the year eighteen hundred and sixteen, and in the fortieth year of the Independance of the United States of America.

Were Present

Thos Hobbs Richard Tilghman Earle, Esquire Chief Judge
Samuel Purnell } Esquires Ass. Judges.
Thomas Worrell }
Richard Moffett, Esquire Sheriff. H. Murphy Clk.

In the Record of proceedings of the said Court amongst others were the following, to wit.

Henny Hemsley and her Children against George Walls — } Be it remembered that on the first Monday of May, being the first day of the same month, in the year eighteen hundred and sixteen, Henny Hemsley, Susan Hemsley, Juliana Hemsley and Priscilla Hemsley, by William Carmichael their Attorney, exhibited to the Court here sitting their petition for freedom against George Walls, in form following to wit.

To the Honourable the Judges of Queen Anne's County Court.

The Petition of Henny Hemsley a Mulatto Woman & Susan Hemsley, Juliana Hemsley and Priscilla Hemsley, children to the said Henny Hemsley sheweth that they are entitled to their freedom, being descended on the female line from a free woman named Susan, and that they are now unjustly held in slavery by a certain George Walls who is now in Queen Anne's County, but is a Resident of the State of Kentucky, they therefore pray

order

process against the said George Wales and that they may be discharged from his hands and may such further & other relief as to your Honors may be right. Wm Carmichael for petitioners

Whereupon it is ordered by the Court here that the Writ of the State of Maryland of Subpoena issue to the Sheriff of Queen Ann's County aforesaid against the said George Wales to answer to the petition aforesaid of the said Henny Hensley and her Children, which accordingly issues in form following, to wit.

Queen Ann's County, to wit. The State of Maryland to the Sheriff of Queen Ann's County, Greeting: You are hereby commanded to summon George Wales late of Queen Ann's County, that all excuses and delays set aside he be & appear before the Judges of Queen Ann's County Court now sitting at Centreville in said County, to answer the petition of Henny Hensley and her Children preferred against him for freedom Hereof fail not at your peril and have you then and there this Writ Witness the Honorable Richard Leighman Earle Esquire Chief Judge of the County Courts in the second Judicial District of Maryland the first day of May in the year eighteen hundred and fifteen, Issued the 15th day of May 1815. John Browne Clk

seal of Queen Ann's County Court

And whereupon the Sheriff of Queen Ann's County aforesaid, to wit, Richard Moffett, Gentleman, to whom the said aforegoing Writ of Subpoena was in form aforesaid directed, makes return thereof to the Court here thus endorsed, to wit. Queen Ann's County, to wit By virtue of this Writ of Subpoena to me directed I have summoned the within named George Wales as I am within commanded.

Richard Moffett Sheriff.

And the said George Wales by Henry Harrison and Ezekiel Forman Chambers his Attorneys appears in Court here Whereupon it is ordered by the Court here, that the said George Wales enter into Recognizance in the sum of two thousand dollars current money with security that he the said George Wales do not remove the aforesaid Henny

my Ensley and her Children out of this State nor obstruct them from attending this Court from time to time in support of their petition for freedom preferred against him the said George Walles and in the mean time to feed cloath and use the said petitioners well

Thereupon the said George Walles present here in Court acknowledges himself to owe and stand justly indebted unto the State of Maryland in the sum of two thousand dollars Current money & a certain Samuel Chaplin of Queen Ann's County also present here in Court in like manner acknowledges himself to owe and stand justly indebted to the State of Maryland in the said sum of two thousand dollars which said sum they and each of them acknowledge shall be made and levied of their respective bodies, Goods and chattels lands and tenements to and for the use of the said State on condition that the said George Walles do not remove Henny Hensley, Susan Hensley, Juliana Hensley & Priscilla Hensley out of this State nor obstruct them from attending this Court from time to time in support of their petition for freedom exhibited in the said Court against the said George Walles, and in the mean time to feed, cloath and use them well, and pay whatever satisfaction the Court shall adjudge for the services of the said Henny Hensley Susan Hensley Juliana Hensley and Priscilla Hensley from this term to the time of the Judgment with Costs – and the said George Wales by his Attornies aforesaid defends the Complaint aforesaid when and where the Court will take the same into Consideration and prays leave of the Court here to imparle until the third Monday of October next and to him it is granted the same day is given to the said Henny Hensley & her Children also. At which said third Monday of October being the sixteenth day of the same month in the year eighteen hundred and fifteen comes again into Court here as well the said Henny Hensley and her children by their attorney aforesaid as the said George Walles by his attorney aforesaid: and the said George Walles by his attornies aforesaid, as before defends the Complaint aforesaid

when and where the Court will take thesame into consideration and prays leave of the Court here to imparle until the first Monday of May next, and to him its granted thesame day is given to the said Henny Hensley and her Children also.

And now here at this day towit, the first Monday of May being the sixth day of thesame month in the year eighteen hundred and sixteen, comes again into Court here as well thesaid Henny Hensley and her Children by their Attorney aforesaid, as thesaid George Walls by his Attorney aforesaid, and thesaid George Walls by his said Attorney as before defends the ~~force and injury~~ complaint aforesaid when andsoforth, and saith that thesaid Henny Hensley and her Children are not entitled to their freedom from being descended in the female line from a free Woman named Susan in manner & form as stated in their said Petition, and this he prays may be enquired of by the Country; and thesaid Henny Hensley and her Children in like manner &c forth. Therefore let a Jury thereon appear before the Court here immediately, by whom &c and who neither &c, to recognize &c, because as well &c, who being called come that is to say, Daniel C. Hopper, Vincent Benton, Thomas Richardson, Thomas Hewitt, William Murphey, Edward Sudler, Charles Downes, John Price, Thomas W. Hopper, James Mapey, William Nolf, Samuel Smyth, George Palmer, William N. Earle, Nathan Betton, John Baggs, Samuel Thompson, Peregrine Blake, Thomas B. Turpin and Solomon Wright, whereupon certain of them towit, Daniel C. Hopper, Vincent Benton, Thomas Richardson, Thomas Hewitt, William Murphey, Edward Sudler, Charles Downes, John Price, Thomas W. Hopper, James Mapey, William Nolf & Samuel Smyth are sworn upon that Jury & the others of thesaid Juroys being according to the Act of Assembly challenged on the part of the Petitioners towit, thesaid George Palmer, William N. Earle, Nathan Betton, John Baggs, Samuel Thompson, Peregrine Blake, Thomas B. Turpin and Solomon Wright the other Juroys

aforesaid just empannelled and sworn being elected, tried & sworn on their Oaths do say that the said Henny Hemsley, Susan Hemsley Juliana Hemsley and Priscilla Hemsley on the day of preferring their petition in this cause were free and of free condition as the petitioners aforesaid in the said Petition to the Court here preferred against the said George Walls within hath alledged —

And the said George Walls by his said attorneys saith that the Court here ought not to proceed to give Judgment in & upon the said Verdict, and prays that Judgment against him in and upon the said Verdict by the Jurors aforesaid in form aforesaid given may be set aside — 1st Because the Verdict is contrary to the direction of the Court to the Jury —

2dly Because the Verdict is against the weight of the Testimony

3dly Because the verdict is without any evidence on the part of the Petitioners to prove that Negro Suck under whom the petitioners claim was a free woman in Virginia —

Whereupon all and singular the premises aforesaid being by the Court here seen heard and fully understood and mature deliberation thereupon had, for that it seems to the Court here that the said Verdict for the reasons aforesaid set forth ought not to be set aside

Therefore its considered by the Court here, that the said Henny Hemsley, Susan Hemsley Juliana Hemsley, and Priscilla Hemsley the petitioners aforesaid recover their freedom, of and against the said George Walls, and that they be free and discharged of and from the service of the said George Walls, and that they the said Henny Hemsley, Susan Hemsley, Juliana Hemsley & Priscilla Hemsley go thereof free and discharged without day and so forth — It is also considered by the Court here, that the said Henny Hemsley, Susan Hemsley, Juliana Hemsley and Priscilla Hemsley recover against the said George Walls, the sum of twenty four dollars and fifty one cents two thirds of a cent by the Court here, unto the said Henny Hemsley

Susan Armsby, Juliana Armsby and Priscilla Armsby adjudged on their assent, for their costs and charges by them about the prosecution of their Petition aforesaid laid out and expended, and that they have thereof their Execution and so forth.

Test Th: Murphy Cl.

Memorandum: Before the Juror aforesaid withdrew from the bar of the Court here, the said George Walls by his said attorney tendered to the Court here the following bills of Exceptions and which were by the Court here signed sealed, and which are in form following to wit.

Army Hamsby & others vs George Walls — Petition for Freedom.

At the Trial of this cause the Petitioners proved by Greenbury Griffin that some time before the surrender of York Town to the American Army he the said Griffin had gone to James River with one Captain James Sweat, that he was afterwards transferred to the Baltimore Galley and after the surrender of the British he again went on board Captain Sweats Vessel and went in to York River, that about two or three Weeks after the said surrender he left York Town.

That about two Weeks before he left York Town he had been on shore at Gosport where he had seen Negro Such the mother of Army one of the petitioners selling Cakes & beer without controul and that he saw her repeatedly afterwards selling cakes & beer; at the shore of the River at York Town until the day before Captain Sweat sailed when the said Such was brought on board Captain Sweats Vessel by two or six men at about 9 O Clock at night & purchased by the said Sweat, that another black Woman was brought on board Captain Sweats Vessel by the same persons, who was released and set on shore in consequence of her Cries and screams — that the said Sweat had informed the said Negro Such that he would make her his Wife that the said Such had said during her

passage to Maryland that she was sorry she had come away as she was free in Virginia and had a White Husband there — On his Cross-examination the said Griffin was asked if he had heard the story of the kidnapping mentioned at any period since he came to Maryland, or whether at any time since he had mentioned it — To which he answered he did not recollect to have mentioned it, but had heard it talked of — said Griffin also proved that one Bartus Sweat returned to Maryland with Captain Sweat and himself and that both Bartus Sweat and Captain Sweat are dead. The Petitioners then proved by John Denny that he had heretofore resided in the immediate neighbourhood of William Sweat (who is now dead) the brother of Captain Sweat and with whom Negro Suck then lived, that he heard a Conversation between the said Suck and the mother of the Witness in which the said Suck stated herself to have been free in Virginia and to have been stolen from thence by Captain Sweat; — The Counsel for the petitioners then asked the said Denny if it was the reputation of the neighbourhood that the said Suck was a free woman to which the Defendant by his Counsel objected, but the Court did permit the Witness to answer the question & to testify that such was the reputation of the neighbourhood — To which the Defendant by his Counsel excepted and that he might have the benefit of his Exception prayed the Court to sign & seal this his bill of Exception which is accordingly this 14th day of May 1810.

R. S. Earle (Seal)
Thos. Worrell (Seal)

Henry Crusley & others } Petition &c.
vs
George Wales . . . }

In addition to the several matters and things stated in the above bill of Exceptions the petitioners proved by the above named Griffin and Denny the declarations of Captain Sweat as to the freedom of the above named Negro Suck

and the Defendants proved that Captain Sweat had sold her to John Gibson deceased. They then proposed to prove by the declarations of the said John Gibson that the said Such was a Slave, but the Petitioners by their Counsel objected to the Testimony & the Court would not permit it to be given, to which opinion of the Court the Defendant excepted & prays the Court to sign and seal this bill of Exceptions which is accordingly done this 14th day of May 1816.

R. T. Earle (Seal)
Lewis Pusnell (Seal)
Thos Worrell (Seal)

And thereupon the said George Wales by his attornies aforesaid prays an appeal from the Judgment aforesaid so as aforesaid rendered to the Court of appeals to be holden for the Eastern Shore of this State and its granted him, It is therefore ordered by the said Court here that the record and proceedings aforesaid in the plea aforesaid with all things thereunto relating be transmitted to the said Court of Appeals to be holden for the Eastern Shore of this State and its granted him, It is therefore ordered by the said Court here that the record and proceedings aforesaid in the plea aforesaid with all things thereunto relating be transmitted to the said Court of Appeals, to be holden for the Eastern Shore of the said State, and the same are transmitted to the said Court accordingly

Maryland, Queen Ann's County, to wit.

I hereby Certify that the within and aforegoing is truly taken from the record of Proceedings of Queen Ann's County Court.

In Testimony whereof to this exemplification I have hereunto subscribed my name & affix the seal of Queen Ann's County Court this sixth day of June in the year of our Lord one thousand eight hundred & sixteen

Seal of Queen Ann's County Court

Th. Murphey Clk
of Queen Ann's County Court

And now comes into the Court of appeals here as well the said George Walls by Ezekiel F. Chambers and Henry Harrison Esquires his Attorneys as the said Henny Hemsley, Susan Hemsley, Juliana Hemsley and Priscilla Hemsley by William Carmichael Esquire their Attorney. And the said George Walls by his Attorneys saith that in the record and proceedings aforesaid and also in the giving of Judgment aforesaid there is manifest error in this, to wit, that by the record aforesaid it appears that the Judgment aforesaid in the plea aforesaid given was given for the said Henny Hemsley against the said George Walls and her Children, when by the law of the land that Judgment ought to have been given for the said George Walls against the said Henny Hemsley and her Children therefore in that there is manifest error and he prays that the Judgment aforesaid for that error, and others being in the record & proceedings aforesaid may be reversed annulled & held entirely as void, and that he the said George Walls may be restored to all that he has lost by occasion of the said Judgment, and that the said Henny Hemsley and her Children may rejoin to the errors aforesaid &c. And the said Henny Hemsley, Susan Hemsley, Juliana Hemsley and Priscilla Hemsley by their Attorney aforesaid say there is no error in the record and proceedings aforesaid, or in the pendition of the Judgment aforesaid and pray leave to that the Court here may proceed to the examination, as well of the record and proceedings aforesaid, as of the matters aforesaid by the said George Walls above for errors assigned, and that the said Judgment may be in all things affirmed &c. Whereupon it is ruled by the Court here that the matters in Controversy between the parties aforesaid be argued and fully discussed as well on the part of the said George Walls as on the part of the said Henny Hemsley and her Children before the Judges of the Court here &c. Thereupon further process of and upon the premises aforesaid between the parties aforesaid by consent of the said parties by their Attorneys aforesaid & by order of the Court here thereon is continued till the

last Monday of November next. At which day, to wit, the last Monday of November eighteen hundred and fifteen, come again into the Court of Appeals here the parties aforesaid by their attorney aforesaid; thereupon further process of and upon the premises aforesaid, ~~between~~ between the parties aforesaid by consent of the said parties by their attorneys aforesaid and by order of the Court here thereon is continued until the last Monday of May next. And now here at this day to wit the first Monday of June, being the day to which the Court of Appeals here, by virtue of an act of the General Assembly in such case made and provided, was changed, continued and adjourned come again into the Court of Appeals here the parties aforesaid by their attorney aforesaid. Whereupon as well the record & proceedings aforesaid and the Judgment given in form aforesaid, as the matters assigned by the said George Wales above for errors assigned, being, seen and fully understood by the Court here, and mature deliberation had thereupon for that it appears to the Court here, that in the record & proceedings of the rendition of the Judgment aforesaid, as to the opinion & direction of the said County Court to the Jury as stated in the first bill of Exception, it is manifestly erred; therefore it is considered by the Court here that the Judgment aforesaid, in form aforesaid given, as stated in the said first bill of Exception, be revoked, annulled and held utterly as void, & that the said George Wales be restored to all things which by reason of the Judgment aforesaid he hath lost, & because it also appears to the Court here that there is no error in the record & proceedings of the rendition of the Judgment aforesaid, as to the refusal of the said County Court to permit the evidence to be given to the Jury, as stated in the second bill of Exception; therefore it is considered by the Court here that the Judgment aforesaid, in form aforesaid given by the said County Court as stated in the said second bill of Exception be in all things affirmed and stand in full force and effect, the said causes for error above assigned & alledged in any wise notwithstanding; and thereupon the Court here pursuant to the directions of the act of Assembly in such case made and provided, order and direct a remission of the record & proceedings aforesaid to the Clerk of the said County

Court, of Queen Anns, with the Writ of the State of Maryland of Procedendo to the said County Court, directing them to proceed in the Action aforesaid, and to a new trial thereof, in the same manner as if no trial had taken place or any appeal had been prosecuted, ~~It is also considered by the Court that the said~~ and that the said Grace Walls may go thereof without day &c

Attest James Parrott Clk.

Maryland ss. I hereby Certify that the aforegoing are truly and faithfully taken & copied from the Record of Proceedings of the Court of Appeals for the Eastern Shore of the State aforesaid —

In Testimony whereof I have hereto subscribed my name and affixed the public Seal of the said Court of Appeals this fourteenth day of June eighteen hundred and seventeen.

James Parrott Clk.
Court of Appeals E. Shore Md.

Filed 18. July 1817

Record.

Grace Walls
against
Thomas Hennsley &
Wm Christian

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Cost of Appellant $18,38½
Cost of Appellees 13,48½