Chapter 1

# Life in Bath County, Virginia

Juliet and Jonathan Lemmon's eight slaves began their fight for freedom in a New York courtroom in 1852, several years before the Civil War. The lawyers for both sides argued the heart of the case, which represented the heart of the national divide: Can there be property in human beings?

The historical setting gives the case its importance, and it is easy to consider it in abstract terms, as a page or two in a book about slavery or legal history. For the Eight, however, the case was not an abstraction. Enslaved, they were in a battle to change their condition from owned objects into human beings.

Emeline Thompson, the oldest of the Eight, made her first official appearance in 1830, as one of the 469,757 enslaved people recorded by that year's census as living in Virginia. She was one year old. Nameless, she was subsumed within a category of "slaves under the age of 10," belonging to William ("Billy") Douglas of Bath County, Virginia.[1]

Emeline first appears by name in 1836, when she was seven years old, in Billy Douglas's last will and testament. There, Douglas listed her as an item of "personal property," along with "twelve head of sheep, the stock of hogs, provisions of every kind, waggon, gears, farming utensils of every kind, all the grain as well as that which may have been gathered as well as that which may be in the ground and also my salt petre kettles."

Bequeathing 2000 acres of land and 34 slaves, Douglas gave Emeline to his 19-year-old daughter Juliet, who later married Jonathan Lemmon (see figures 1.1 and 1.2). Under Virginia law, Juliet's property, including Emeline, belonged to her husband.[2]

Figure 1.1. Portrait of Juliet Lemmon (1817–1909). Courtesy of Shirley Craft/ Find a Grave.

Figure 1.2. Portrait of Jonathan Lemmon (1808–1890). Courtesy of Shirley Craft/ Find a Grave.

Douglas had 13 children, borne by three women, none of whom he married, one of whom was Juliet's mother.[3] With a few exceptions, such as Emeline, Billy Douglas did not direct which slave should go to whom, leaving it to his children to sort them out. Five of the 34 enslaved were born after Douglas died. Executors could treat enslaved children born after the testator's death "no otherwise than Horses or Cattle," as a Virginia court put it.[4] In his will, Douglas emancipated Ben, one of his slaves, "because of his great fidelity and service to me which on one occasion resulted in the loss of one of his eyes." He continued, "I further bequeath unto the said Ben a young brown mare and one hundred dollars."

In addition to Emeline, Juliet also gained title to Emeline's two younger brothers, Lewis and Edward, and to Nancy, a four-year-old girl. Douglas also left Juliet a sizable homestead with large acreage.

Sixteen years later, in 1852, the "Lemmon slaves" had increased from four to eight. Emeline, now 23, was the mother of five-year-old twins, Robert and Lewis, and a younger girl, Amanda. Nancy, now 20, had a daughter, Ann, about two years of age. Emeline's brothers, Lewis and Edward, were about 16 and 13.[5] They all had grown up in Bath County, Virginia, which—at least until West Virginia came into existence, in 1863—lay near the center of the state, covering over a half million acres of beautiful vistas, and locales with colorful names like Paddy Knob, Bull-pasture Mountain, Windy Cove, Muddy Run, Sister Knobs, Red Holes, Dry Run, Panther Gap, Falling Spring Run, and Sideling Hill. In the late 1840s, as the Eight were growing up, nearby resorts like Warm Springs and Hot Springs began to attract thousands of people in the summer.

Billy Douglas and the Lemmons farmed land intersected by the Cowpasture River and the James River, producing corn, oats, hay, wool, and butter. The market for enslavement says something about the size of Billy Douglas's slave holdings. In 1840, not long after he wrote his will, Bath County had a population of 4,300 people, including 1,045 enslaved—of whom Douglas had owned 34.[6]

Within a decade, by 1850, Bath County had nine sawmills, eight grist mills, four wool-carding mills, two agricultural manufactories, two tanneries, and six churches.[7]

By 1852, the Lemmon family farm was teeming with children—15 in all. Juliet and Jonathan had seven, including 16-year-old Douglas (from her

previous marriage), followed by Nancy, 9; Joseph, 8; James, 7; Caroline, 6; Juliet, 4; and Sarah, 2. The seven lived in the main house. Those they enslaved, the Eight, lived in cabins nearby (see figure 1.3).

It was not like summer camp. In slave-owning settings, enslaved children did not sit around the table together with the owners' children or play hide-and-seek with them in the family parlour. Emeline and Nancy, the oldest of the enslaved children, were expected to look after the younger Lemmon children, to cook and clean, to work in the fields, and to do whatever chores it took to help keep the household and the farm going.

When Juliet acquired Emeline's brothers, Lewis and Edward, they were infants. As they grew up, their chores increased, and by 1852, as teenagers, they were old enough to do work on the farm. Unlike large plantations that enslaved dozens, the Lemmon operation did not have an overseer. The boys took their orders from the Lemmons and, probably, from their oldest son, Douglas, then 16.

In slave societies, it was not uncommon for enslaved young women to wet-nurse white babies. When Juliet Lemmon inherited them, Emeline

Figure 1.3. A cabin built on the Douglas property before 1837. Courtesy of Jean Nooe Miller and Katie Shepard, originally published in *Wiggum Stories*.

was seven and Nancy three, but in the world of enslavement, they grew into "productive assets." After about nine years, at age 16, Emeline could work in the fields and in the house. She had also given birth to twin boys and a girl. This "increase" meant not only three more slaves, but also a young mother who could wet-nurse the owners' children (see figure 1.4).

Nancy, about three years younger than Emeline, followed a similar path, and could be called on for the same duties as Emeline.

It is inconceivable that some sort of rapport did not develop among these 15 young people, eight white and seven Black. The relationships between the enslaved and the family children were complicated. A Black female slave wet-nursing her white master's infant was bound to create an intimate bond. Surely, affection ran both ways. Films like *Gone With the Wind* would romanticize that side of things.

But that was in the movies. In day-to-day life, the rules of enslavement controlled. One commentator recorded accounts of how slave children were subjected to the "tyranny" of the master's children. We do not know, for

Figure 1.4. Photo of Mary Allen Watson, an enslaved African American girl carrying a white infant, 1866. Library of Congress, Prints and Photographs Division, LC-DIG-ppmsca-11038.

example, how eight-year-old James Lemmon might have treated Emeline's twin boys. It would have depended on Juliet and Jonathan's supervision and sense of decency. We do know, however, that under slavery law, a master had the right to inflict brutal physical punishment—short of murder—on the enslaved.

After all, the victims were "owned property," which meant that owners could do with them pretty much as they pleased. But, as with any other "property," they had an incentive to treat the human beings they owned at least well enough to maintain their "value."

From the time Emeline and Nancy were old enough to get the idea, they understood that they were not members of the Lemmon family but were more like appendages, living in fear of being sold, or enduring the sale of their mothers or their fathers—and later, their partners or their children.

This fear was real. In paragraph 10 of his will, Douglas had directed that if there was not enough money to pay his debts and expenses, "the negroes" were to constitute a "fund," and his children were to have "the privilege of designating such of the said slaves as they would prefer being sold." Testamentary provisions of that kind were common.

We do not know how many of Douglas's slaves were given over to the auction block. If any had been sold, the calculus would have taken into account the subject's age, strength, and congeniality, along with the capacity for hard work and robust breeding.

Nancy, we know, was not sold off but wound up in the Lemmon household, where she would have been expected to "increase" the inventory. Appalachian slave mothers lost one of every three offspring to sales. This grim prospect was epitomized by the plaintive cry, "Buy us too" (see figure 1.5).

What of running away? From the earliest age, any such thought would be met with tales of what happens to anyone daring enough to try it. Yes, they knew, some did make it, but most were hunted down and whipped—if they were not killed in the pursuit or capture, that is. This was long engrained in establishing the rules of ownership. There were countless advertisements offering rewards for runaway slaves, but none made the point more clearly than one that offered 10 pounds either for the runaway alive, or "for his Head, if separated from his Body."

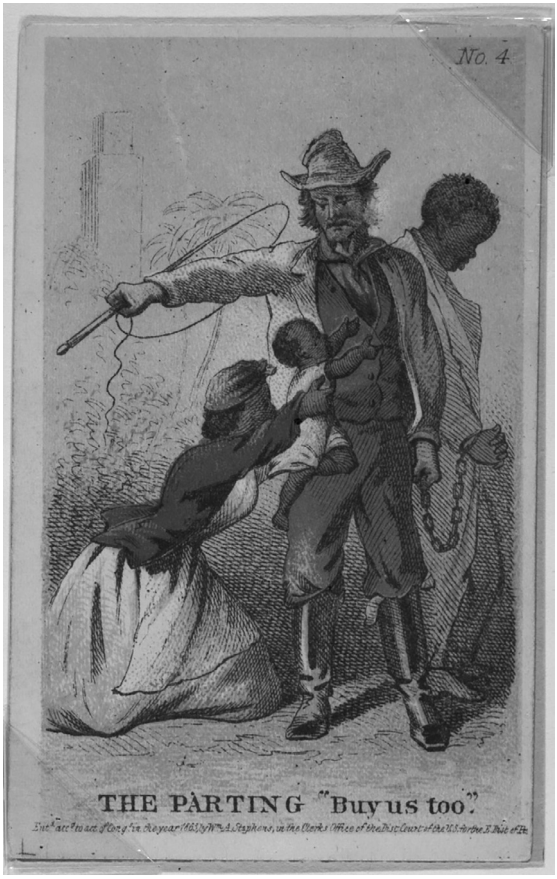


Figure 1.5. "Buy us too." Library of Congress, Prints and Photographs Division, LC-USZC4-2525.

The relationships between owners' children and slaves varied from plantation to plantation, but the basic idea was not only spelled out in custom but backed up by law. An influential court decision came down in 1829, the year Emeline was born. The case, *State v. Mann*, came from the Supreme Court of North Carolina, but it spoke for the entire South.

John Mann, a widowed sea captain, hired a slave, Lydia, for one year. He chastised her for some small offense, and as she was running away, he shot and wounded her, for which he was tried. The judge instructed

the jurors that if they believed the shooting cruel and disproportionate, it would constitute an assault and battery. The jury found Mann guilty, and he was fined five dollars.

On his appeal, the court overturned his conviction and wrote a landmark decision, answering a question basic to American slavery: Short of willful murder, does the law impose *any* limits on slaveowners or renters in their treatment of slaves? The decision's author, Chief Justice Thomas C. Ruffin (1787–1870), was one of America's most eminent jurists. The prosecution had argued that Mann's crime should be treated like that of a parent charged with shooting a child. The court said no, noting that in a free family, "the end in view is the happiness of the youth, born to equal rights with that governor, on whom the duty devolves of training the young to usefulness, in a station which he is afterwards to assume among freemen." Enslavement, the court declared, was different. For slavery to work, domination had to be total and unconditional. "The end is the profit of the master, his security and the public safety; the subject, one doomed in his own person, and his posterity, to live without knowledge, and without the capacity to make any thing his own, and to toil that another may reap the fruits."[8]

There was another reason that slave power insisted on total and unconditional domination: a legitimate fear of insurrection. Imagine a plantation with, say, four family members at home, and dozens or even hundreds of slaves at hand. News of rebellions, like Denmark Vesey's in South Carolina in 1822, and Nat Turner's in Virginia in 1831, kept slaveowners vigilant. Insurrection was punishable by death, but the Virginia legislature also tried to prevent uprisings by forbidding slaves even from attending gatherings, where they might foment discontent and rebellion. Not only were slaves prohibited from congregating, but Juliet and Jonathan Lemmon knew that even they could get into trouble for allowing a slave on their property for more than four hours without the owner's consent. Worse yet, if the Lemmons allowed more than five other slaves to remain, for even a moment, all stood to be punished.[9]

By and large, these statutes were grounded on skin color, but religion also played a part, insofar as Africans were looked down on as "heathen." An early statute read, "If any Negro lift up his hand against any Christian he shall receive thirty lashes."[10]

Laws like that raised concerns about baptism. If slaves became Christian, would that serve to unchain them? This posed a dilemma, because many slaveowners were not about to liberate their slaves, but could find some moral comfort in seeing them Christianized. The Virginia legislature

came to the rescue, assuring slaveowners that baptism would not undo the slave's status, at least in this world. The Lemmons were free to have the Eight baptized with no fear of losing their "property."[11] We do not know whether any of the Eight were baptized. (Lest anyone think that these concerns existed only in the South, New York had passed similar legislation before the state abolished slavery.[12])

Nor do we know how often, if at all, the Lemmon family or the Eight attended religious services. Under Virginia law, the Lemmons were allowed to take the Eight to church with them, as long as the Eight sat in a separate section. But slave power was grudging, ever mindful of allowing the enslaved to get any ideas about freedom, and so they were forbidden by law from attending any service conducted by a non-white minister.[13]

Nor could any of the Eight, or any other slave, own property. They would have understood that their clothing was "theirs," but owned by the Lemmons—just as they themselves were.

Slave power enacted harsh laws dealing with slaves stealing. An early Virginia statute warned: "[The penalty] for the first offense of hog stealing by a Negro or a slave is set at thirty lashes on the bare back, well laid on; for the second offense, two hours in the pillory with both ears nailed thereto, at the expiration of the two hours the ears are to be cut off close by the nails. For the third, death."[14]

As for the family lives of the enslaved, the respective names of the Eight tell us something. Emeline went by the last name of Thompson, Nancy's last name was Johnson, and Emeline's twin boys were Lewis Wright and Robert Wright.

Many of the enslaved simply took the names of their owners. The names Thompson, Johnson, and Wright leave us guessing. Neither Emeline nor Nancy, nor any of the Eight, could legally enter into any form of contract, and marriage was a contract, so it was barred.[15] Emeline probably took the name Thompson from a partner, possibly a slave named after his owner, on a nearby plantation. The same for Nancy Johnson.

Slaveowners like the Lemmons not only allowed but encouraged young women like Emeline and Nancy to have "abroad spouses," meaning mates owned by neighboring slaveowners. But there was a limit: Lasting unions between slave husbands and wives created divided loyalties and worked against the structure of slavery.

At their discretion, or at their whim, the slaveowner would allow for visitation at the slave quarters.[16] That Emeline Thompson called her twin boys Lewis and Robert Wright suggests that their father was named Wright, possibly a slave from a nearby plantation. Interestingly, at the sale of Billy Douglas's estate after his death, one of the buyers was named Thompson Wright.

Nancy and Emeline also understood, from an early age, that as females they were available for the taking, to satisfy the sexual appetites of their owners or other white assailants. Rape laws did not apply.[17] As one researcher tells it, slaveowners would select women and bring them to the "big house" as cook or nursemaid, within easy access.[18] Emeline's twin boys were Mulatto, which speaks to her having been "taken" by a white man. Nancy was also Mulatto.

With impunity, a white man could rape a slave, but marrying a Negro (free or enslaved) was against the law. As early as 1691, Virginia enacted a law prohibiting racial intermarriage, to prevent the "abominable mixture and spurious issue which hereafter may encrease, in this dominion, as well as by negroes, mulattoes, and Indians intermarrying with English, or other white women, as by their unlawfull accompanying with one another."[19]

And yet, slaveowners commonly fathered Mulatto children. We do not know how many of his slaves—or the slaves of others—Billy Douglas had fathered. But there is a clue.

In his will, Douglas made a point of giving his daughter, Theresa, four slaves as *separate* property, going out of his way to direct that after her death, the slaves should descend to her children. Douglas expressly prohibited Theresa's husband from selling the four—a form of "family retainer." Why did he go to such lengths, including a provision of questionable enforceability?

The provision suggests that Douglas may have been their father, and, while he was not prepared to say so in writing, he gave the four slaves possible protection from being sold into a harsher life. The protection was only a possibility, because it is not clear that the Virginia courts would honor a provision interfering with a husband's ownership of his wife's assets and his right to sell them. But Douglas gave it a sporting try.[20]

As for literacy, teaching slaves to read and write was a dangerous business both for whites and for the enslaved. Slaveowners understood that a literate slave would likely be less content than one open to recitals about the "blessed state of bondage." Even under the most tranquil circumstances, most slaveowners were not disposed to teach their slaves to

read or write. The thought of literacy among slaves became even more fearsome with the growing flood of abolitionist literature flowing South in the 1840s.[21]

By 1848, when Emeline and Nancy were about 19 and 16, the Supreme Court of Virginia handed down a decision that summed up the legal status of the enslaved in the state.

The case, *Peter v. Hargrave*, concerned James Hargrave, of Dinwiddie County, Virginia, who in his last will and testament had emancipated his 12 slaves and their children. He also left them some money to leave Virginia, considering that emancipated slaves were not permitted to remain in the state, under pain of re-enslavement. Slave power saw free Blacks as a threat to public order, capable of inciting slave discontent and revolt. At the top of his will, Hargrave had quoted the words of Alexander Pope: "Teach me to feel another's woe, / To hide the fault I see; / That mercy I to others show, / That mercy show to me."[22] After Hargrave's death, his "emancipated" slaves had to sue for their liberty. They won, but in the interim they had been improperly kept in bondage—and sued for compensation. Virginia's high court rejected their claim, citing the fundamentals of enslavement. "Persons in the status of slavery," the court held, "are not entitled to any of the remedies of freemen: they are slaves whatever may be their right to freedom, and have no civil privileges or immunities."

The enslaved, the court explained, "from colour, and other physical traits, carry with them indefinitely the marks of inferiority and degradation; and even when relieved from bondage can never aspire to association and citizenship with the white population." And what of freedom itself? Freedom to them, the court said, "is a benefit rather in name than in fact; and in truth, upon the whole, their condition is not thereby improved in respectability, comfort, or happiness."

The court then proclaimed that slavery was beneficial to the enslaved, in that they are exempt from the "wretchedness of actual want," the cares and anxieties of a precarious subsistence, and are provided for in infancy, old age, and infirmity. Allowing them compensation "would not promote those habits of industry, temperance and humility, without which their recently acquired liberty must prove a curse instead of a blessing."

The judges were able to compartmentalize things. The law was the law; slavery was slavery. They explained that it was not their job to intro-

duce concerns about humanity into the jurisprudence of enslavement. "In deciding upon questions of liberty and slavery, such as that presented in this case," the opinion read, "it is the duty of the Court, uninfluenced by considerations of humanity on the one hand, or of policy (except so far as the policy of the law appears to extend) on the other, to ascertain and pronounce what the law is; leaving it to the Legislature, as the only competent and fit authority, to deal as they may think expedient, with a subject involving so many and such important moral and political considerations."[23]

Emeline and Nancy were not familiar with these writings, of course, but they knew all too well the lessons taught in them, to which they had been exposed throughout their young lives. And they were still governed by them in October, 1852, when the Lemmon family decided to leave Bath County, Virginia, taking the Eight with them to start a new life in Texas, another slave state.