ABSTRACT

Title of thesis: WAITING ON THE "HIGHER LAW": HENRY MASSEY AND THE STRUGGLE AGAINST PHILADELPHIA'S FUGITIVE SLAVE COURT

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Abstract:

Philadelphia's preeminence as an historical hub of Underground Railroad activity, popularized through the exploits of William Still, is well established. However, a series of archival gaps have virtually erased Philadelphia, and particularly the early years of its fugitive slave court, from the wider historiography of the Fugitive Slave Act of 1850. This work attempts to re-center Philadelphia, as well as its white-led abolitionist organizations and its African American community, in the scholarly discussion over the Act's origin, intent, and effect. Attempting to overcome archival limitations, this work reconstructs the city's first fugitive slave court, overseen by Commissioner Edward D. Ingraham from December of 1850 until his death in November of 1854, through the eyes of its participants. Using a close-reading approach, this thesis considers Philadelphia's resistance to both the Ingraham court and the Act in toto from three perspectives. By comparing the case of Adam Gibson (the first victim of the Ingraham court) to that of Henry Massey, a Maryland freedomseeker and the last person sentenced before Ingraham's death, this thesis establishes a documentary baseline through which one can trace the court's evolution across the opening years of the Act's enforcement. Through recreating the personal and institutional histories of Commissioner Ingraham, the Pennsylvania Abolition Society, and the abolitionist lawyers who represented Gibson, Massey, and other freedomseekers, this thesis provides context to evaluate the legal, social, and religious moves made by the city's elite in response to the Act's passage. Finally, by drawing out indications of black organization and agency hidden within the internal records of the Abolition Society itself, this thesis attempts to delineate the practical limits of interracial abolitionist cooperation within Philadelphia at the time. Ultimately, this thesis finds that a combination of geographic pressures and ideological guardrails particular to Philadelphia prevented a stronghold of abolitionist outrage from forming an effective counter to the Act, even while comparable cities (Boston, Syracuse, Harrisburg) developed legal and illegal strategies for shutting down their resident fugitive slave courts.

WAITING ON "THE HIGHER LAW": HENRY MASSEY AND THE STRUGGLE AGAINST PHILADELPHIA'S FUGITIVE SLAVE COURT

by

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Dedication:

This work is dedicated to the blessed memory of my late friend, Thomas F. "Tommy" Carroll, III (1995-2019), who left us too soon, and to whom I owe too much to say.

Tommy, I'll see you up on Melancholy Hill. Until we meet again, this is for you.

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A great number of people made this thesis a reality. While I cannot enumerate every deserving person here, know that you have my eternal gratitude.

Let me begin by thanking my many mentors. I thank my advisor, Dr. Christopher Bonner, as well as my committee members, Dr. Holly Brewer, and Dr. Michael Ross, for the care and rigor they brought to our conversations. I must also thank my original mentors, Dr.'s Peter Carmichael, Michael Birker, and Ian Isherwood, all of Gettysburg College, for giving me the skills and support that convinced me I could go the distance and one day do what they did. Finally, my thanks go out to Meagan Baco, Heather Ersts, and Dr. Iris Leigh Barnes, who gave me my professional start in the midst of a global pandemic.

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Lastly, I would like to thank my father, David Gerard LaRoche, for instilling the love of history in me in the first place. Dad, I would not trade all those Gettysburg and Antietam battle walks for anything.

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Prologue

Had Henry Massey dared to hope?

Having escaped from a small island in the Chesapeake Bay at the age of fourteen, Henry Massey had reason to think himself especially lucky, able, or blessed. After his slaveholder's death, Massey and his family faced not only separation, but the risk of sale to the Deep South in the estate settlement. Determined to make the best of multiple bad options, in October of 1849 he fled Kent Island, Maryland, and settled in Harrisburg, Pennsylvania. After some five years of tenuous freedom, law enforcement identified Massey as a fugitive and arrested him along the Harrisburg Canal on September 23rd, 1854. Then, Massey went before U.S. Commissioner Edward D. Ingraham in Philadelphia for sentencing under the Fugitive Slave Act of 1850.

With the winds of moral surety, legal celebrity, and national outrage at his back, Massey may well have believed it possible that he could do what vanishingly few defendants had done before—depart Commissioner Ingraham's court with his freedom intact. If he did begin his trial with this hope, then Massey must have resented the practiced ease with which the Philadelphia establishment marked his return to slavery. In the end, the Fugitive Slave Act simply could not be broken in the same ways that Henry Massey could. It could not be shot, stabbed, burned, wrenched, or otherwise brought to task for the harm inflicted through its brazenly pro-slavery framework. Henry Massey was only a man. A soul constrained by a fragile body that, unlike the federal infrastructure of oppression installed and expanded by the Act, could be bound and broken all too easily. In the end, the public consumed and forgot about Henry Massey's trial much the same as it did any other fugitive slave trial. And yet, despite the many soft powers of Massey's defenders, the fundamental question remained unanswered until the very second that

Commissioner Ingraham passed his judgement—what *was* Henry Massey, and what did he *deserve*?

When viewed from Massey's perspective, it becomes clear that the fugitive slave courts of the 1850's were, perhaps more literally than any other court of the era, arenas where factions battled for the right to both legally and publicly establish a person's identity. The power to simply say who (or what) an individual was had immense ramifications at the individual, city, state, and national levels. With this power as its lifeblood, the passage of the Fugitive Slave Act of 1850 tore open a great chasm in the moral heart of America, and in spectacular fashion revealed a longstanding fracture that lay beneath—the drive for a final answer to the legality of slavery, and the determinacy of slave status. Into this maw of uncertainty, two competing national networks mustered their forces and poured forth their vitriol. On one side, a pro-slavery public that stressed the letter of a thoroughly lobbied law. On the other, a coalition of anti-slavery factions that emphasized the moral bankruptcy and inconsistency of the Act.

The fugitive slave courts' inherently political nature, indeed, their very existence as component parts of the Compromise of 1850, made the proslavery bias built into their legal mandate concerning to everyone involved in adjudicating a fugitive's status. This bias created crises of legitimacy for those on both sides of the bench. Could an anti-slavery judge be considered a Christian to himself and his community if he followed the letter of a law he considered fundamentally immoral? Would a pro-slavery judge inevitably fail to carry out his remit in a city that seethed against his authority, resisted, and condemned him at every turn? Were the preachers and pamphleteers who railed against the Act actually living up to their religious and moral ambitions, even as they stood aside and allowed the law to sell freedomseekers back into slavery? Through which small measures could the defendants reclaim

their humanity from a court that would not admit proof of their identity or status except through white proxies? What hope existed for those who were what the court insisted they were—criminals for expressing a will that the status of slavery should not have allowed them to possess in the first place? In short, how did it come to pass that, in a city full of his defenders, Henry Massey lost his battle against the Fugitive Slave Act?

Introduction

In the first half of the 1850's, the tension between whether technical justice or moral justice should prevail when determining a defendant's slave status set Philadelphians' minds and pens on fire. The Fugitive Slave Act of 1850 had the potential to propel people out of the courtroom and into the streets, as occurred numerous times in other American cities. However, to date, the dimensions of Philadelphia's reaction to the Act have never been satisfactorily probed, nor its contributions towards curtailing the Act placed within the wider national context of abolitionist outrage and opposition generated by the Act's existence. Considering Philadelphia's status as perhaps *the* best documented center of Underground Railroad activity in the country, and its geographic location as the first major East Coast city above the Mason-Dixon line, this historiographical gap appears puzzling at first. After all, coordinated acts of spiritual, legal, and even physical resistance to the Act in other cities have been well documented in the secondary literature for some time.[1]

[1] For a national overview of the Fugitive Slave Law, its influences, and instances of its enforcement, see: Stanley W. Campbell, *The Slave Catchers: Enforcement of the Fugitive Slave Law* (University of North Carolina Press, 1970).; Thomas P. Slaughter, *Bloody Dawn: The Christiana Riot and Racial Violence in the Antebellum North* (New York: Oxford University Press, 1991).; R.J.M. Blackett, *The Captive's Quest for Freedom: Fugitive Slave*s, *the 1850 Fugitive Slave Law, and the Politics of Slavery* (Cambridge: Cambridge University Press, 2018).; Cheryl Janifer LaRoche, *The Geography of Resistance: Free Black Communities and the Underground Railroad* (Champaign,

As this investigation will illustrate, interrogating the roles Philadelphia's fugitive slave court, citizen-led resistance organizations, and Black community played in the both the local and national struggle over the Act requires a creative, close-reading approach to compensate for key silences in the archive. In the course of this inquiry, I will attempt to accomplish two primary objectives. Firstly, through correcting the historiographical gap surrounding Philadelphia's reaction to the Act, I intend to resituate Philadelphia in the national conversation over the law's origins, function, and impact in the years preceding secession. Secondly, I will answer why the Act was continually enforced in Philadelphia throughout the 1850's even as legal, semi-legal, and illegal acts of resistance shut it down in other parts of the country—including in neighboring Harrisburg. To accomplish these goals, I will conduct a two-part post-mortem of resistance efforts in the city. By recreating and scrutinizing the institutional histories of primarily white-led organizations (Pennsylvania's Abolition and Antislavery Societies, and Philadelphia's Vigilance Committee), I will demonstrate how dominant white conceptions of resistance and the nature of law itself amongst Philadelphia's activist community fell flat in the face of an invasive and bullheaded Federal law. Then, by juxtaposing the legal experiences of Philadelphia's Black congregants, community organizers, and defendants with those of Antebellum Black legal cultures in the South and Midwest, I will illuminate how Philadelphia's legal geography and the

Illinois: University of Illinois Press, 2014).; For resistance to the Act in Massachusetts, see the work of Gary Lee Collison, William E. Gienapp, and Robert L. Hall (footnote 6), Leonard W. Levy and Harold Schwartz (footnote 9), Charles Stevens, Gordon S. Baker, and Earl M. Maltz (footnote 10).; For resistance to the Act in New York, see the work of Angela F. Murphy and W. Freeman Galpin (footnote 15) and Scott Christianson (footnote 24).; For resistance to the Act in Wisconsin, see H. Robert Baker (footnote 18).; For resistance to the Act in Ohio, see Roland Bauman (footnote 19). For resistance to the Act in Pennsylvania, see Blackett, *The Captive's Quest for Freedom*, chapters 7 and 8, Milt Diggins, *Stealing Freedom Across the Mason-Dixon Line*, chapter 2, and Nat and Yanna Brandt (footnote 42).

logistics of the fugitive experience proved exceptionally hostile to both Black individuals and communities who, under different circumstances, might have found far more traction.

However, such an approach can also re-center the debate over the Fugitive Slave Act of 1850 on its intended targets: free Blacks wrongfully identified as slaves due to the nebulous nature of citizenship at the time, and enslaved Blacks guilty only of asserting their humanity against a law that reduced them to the legal fiction of property-in-persons. Having recently rediscovered the story of one particular freedom seeker, Henry Massey of Kent Island, Maryland, we are poised to see the legal regime of fugitive law anew, both in an enriched historical context and, where possible, through his eyes as a key participant at the bitter end of Commissioner Ingraham's tenure.

While admittedly no *one* individual can adequately speak to the nature of an experience, the comparison of *two* carefully situated defendants—one at the start and another at the end of a court's life cycle—can reveal much about its evolution. In the case of Edward D. Ingraham, Philadelphia's first and most formative Fugitive Slave Commissioner, the rediscovery of Henry Massey's story has made it possible to evaluate the full four-year lifespan of his court. Between Adam Gibson, a free Black New Jerseyan wrongly identified as a runaway Marylander in December of 1850, and Henry Massey's trial just one month before the Commissioner's death, we can look down into the Ingraham court to evaluate the players involved in toto. By bolstering these men's biographies and legal histories with an array of supplementary material which previous scholars of the Fugitive Slave Act have neglected, we can start to recover elements of the working knowledge that all participants in the courtroom—from the commissioner, to the claimants and defendants, to the legal representation, organized activist bodies, and press members—operated under. In short, reconstructing the court itself as fully as possible under the

current documentary restrictions will create a basis for interrogating why it endured while similar courts failed.

Through this holistic approach, we will attempt to compensate for the interpretive shortcomings in the few scholarly works that exist on this topic; namely R. J. M. Blackett's *The Captive's Quest for Freedom* (2018) and, to a lesser extent, Milt Diggin's *Stealing Freedom Along the Mason-Dixon Line* (2015).[2] As I will expound on in Chapter 1, it is no coincidence that the only two substantive treatments of Philadelphia's fugitive slave court to date are incredibly recent additions to the historiography of the Fugitive Slave Act. While both books represent valuable contributions to understanding a critical link in the dual chains of slave flight and return, they struggle with the same problems that all who write the history of the underground and subversive encounter—the difficulty of quantifying the concealed and tracking the pursued.

I would argue—as in the case of *The Captive's Quest for Freedom*"—that quantitative approaches often fall short when one attempts to write the history of a subversive, underground organization. This places the onus on the historian to cleave as closely to the full breadth of what primary sources survive, relying on close readings to lend a kind of investigative judgement to the more readily available sources. In the case of the Ingraham Court, newspaper evidence is far more plentiful than court records, to say nothing of personal accounts by victim, aggressor, or bystander.[3] However, newspaper evidence alone cannot give us the context needed to weigh, as

[2] R.J.M. Blackett, *The Captive's Quest for Freedom: Fugitive Slave*s, *the 1850 Fugitive Slave Law, and the Politics of Slavery* (Cambridge: Cambridge University Press, 2018).; Milt Diggins, *Stealing Freedom Across the Mason-Dixon Line: Thomas McCreary, the Notorious Slave Catcher from Maryland* (Baltimore, MD: Maryland Historical Society Press, 2015).

[3] Compared to the 21 hearings in Philadelphia that Blackett identifies between 1850 and 1860, Record Group 21 at the National Archives and Records Administration only holds partial records for eight of them under its collection of Fugitive Slave Case Files for the Eastern District Court of Pennsylvania.

Michel-Rolph Trouillot put it, the alternation of "mentions" and "silences" from which historical narratives emerge.[4] I certainly cannot claim the mantle of comprehensiveness where studies of Philadelphia and the Act are concerned. However, the simple fact that neither Henry Massey, nor *any* freedomseekers tried in 1854, are counted by Blackett for the purposes of providing analysis and insight into Philadelphia's fugitive slave court is a call for humility on our parts.[5]

Lastly, I would like to briefly recognize the rediscovery of Henry Massey not for my sake but for his. In calling forth his memory to testify against the Act once more, I hope to pay a debt of remembrance to both Massey as an individual, and in absentia to countless other freedom seekers. These men, women, and children enabled countless attempts to destroy the Act, or at least preserve their liberty under its scrutiny, with their blood, bodies, and freedom. If identity was the currency of the fugitive slave courts, then it is fitting that the victims of those courts finally receive that most basic of dues.

[4] Michel-Rolph Trouillot, *Silencing the Past: Power and the Production of History* (Boston, Massachusetts: Beacon Press, 1995), p. 27.
[5] Blackett, *The Captive's Quest for Freedom,* p. 337.

CHAPTER 1

"An Instrument of Degradation and Oppression": Reconsidering National Resistance to the Fugitive Slave Act of 1850

One cannot interrogate the historiographical gap surrounding Philadelphia in the age of the Act without recapping the broad strokes of resistance to the Fugitive Slave Act nationally. Doing so provides the necessary context to place Philadelphia in a wider network of outrage and action that opposed the Act from its inception up through the start of the Civil War. To that end, in this chapter I will explore three categories of contextual information that I believe are essential for conducting the analyses found in Chapters 2 and 3. First, I will provide a summary of the historiography of the Fugitive Slave Act, explain why Philadelphia endures as a scholarly gap, and consider what the broader implications of that gap are for both our scholarly understanding of the Act and the context we will use in our exploration of Massey's case. Second, I will introduce Henry Massey's biography so that he might serve as an interlocutor for the experiences of freedomseekers who escaped, found tentative freedom in the North, and (as Chapter 3 will explore) ultimately faced the fugitive slave courts. Third, I will introduce the public dialogue that swept through Pennsylvania after the Act's passage as a way of establishing a baseline for the knowledge and opinions that the subjects of Chapter 2 (the members of Pennsylvania Abolition Society) operated under. In order to compensate for numerous archival deficits, I will interrogate how the interplay of the Act and its enforcers, Pennsylvania's activist communities (both white and Black), and the city's abolitionist attorneys, helps explain both the outcome of Massey's case and the perseverance of Ingraham's court.

The Historiography of the Fugitive Slave Act of 1850

In the course of conducting this historiographical review, it becomes inescapable that a fatal flaw exists in the consensus reasoning displayed by most historians on the topic to date. Building off of the efforts by Jeffrey Hummel, Barry Weingast, and Connor Lennon to refute the claim that that the Act was ineffectual, trivial, and/or politically schizophrenic, I argue that such skewed interpretations have endured precisely because scholars have long elevated scattered acts of successful resistance over innumerable (and often archivally invisible) failures. Just as these scholars have identified the Upper South and Mid-Atlantic border states as the zone of effect intended by the Act's authors, I submit that interpreting the relative success and lasting impact of the Act in Philadelphia must likewise start by returning the national conversation to its regional center of gravity.

Boston, perhaps unsurprisingly for an anti-slavery metropole, features heavily in the historiography of the Fugitive Slave Act nationally. Indeed, Boston offered the most successful opposition to the Act of any single locale. When U.S Marshalls arrested Shadrach Minkin in February 1851 under the newly enacted law, and concerned Bostonians ferried him to Canada, a sympathetic jury acquitted two of his accused allies.[6] President Fillmore's deployment of federal troops failed to enforce the law and was generally considered an embarrassment for the administration and the pro-slavery bloc nationally.[7] In April of that year, Thomas Sim's case ended in tragedy, despite the intervention of the same Boston Vigilance Committee that had

[6] Gary Lee Collison, *Shadrach Minkins: From Fugitive Slave to Citizen* (Cambridge, MA: Harvard University Press, 1998).; William E. Gienapp, "Abolitionism and the Nature of Antebellum Reform," in *Courage and Conscience: Black & White Abolitionists in Boston*, ed. Donald M. Jacobs (Indiana University Press, 1993), 75–100.; Robert L. Hall, "Massachusetts Abolitionists Document the Slave Experience," in *Courage and Conscience: Black & White Abolitionists in Boston* ed. Donald M. Jacobs (Indiana University Press, 1993), 21–46.
[7] Ibid.

successfully aided Minkins previously. The prosecution enjoyed two structural advantages built into the Act which would sink many other defense arguments over the coming years, including in Philadelphia: the outright exclusion of Sim's testimony as evidence, and the requirement for holding a trial in a "summary manner."[8] Sim's audible pleas for a knife to take his own life as he was forcibly marched to a Georgia-bound freighter created an outburst of national sympathy that overshadowed the prosecution's legal success.[9]

The Abolitionist outrage machine would remember this defeat. Proselytizing against the barbarity of the Act via newspapers, circulars, and pamphlets, the concerned citizens of Boston had cultivated a communal will-to-action by the time of Anthony Burns' case in May of 1854. Professional slave hunter Asa O. Butman infamously entrapped Burns without inciting an anti-slavery mob by accusing him of jewelry theft.[10] Knowing he was innocent, Burns willingly proceeded to the courthouse, expecting to face the store owner, but was instead arrested by a U.S. Marshal.[11] After U.S. Commissioner Edward G. Loring reluctantly sentenced Burns to be returned south, a mob comprised of members of the Boston Vigilance Committee armed themselves with axes and revolvers, and stormed the jail where Burns was being held.[12] A quick police response, later reinforced with a detachment of Marines mobilized by President Pierce, foiled the breakout attempt and put the city on lockdown to dissuade any further resistance to the

[8] "An Act to amend, and supplementary to, the Act entitled 'An Act respecting Fugitives from Justice, and Persons escaping from the Service of their Masters,'" 31st United States Congress, enacted September 18th, 1850.
[9] Stanley W. Campbell, *The Slave Catchers: Enforcement of the Fugitive Slave Law* (University of North Carolina Press, 1970), 117–121.; Leonard W. Levy, "Sims' Case: The Fugitive Slave Law in Boston in 1851", *The Journal of Negro History*, January 1950, Vol. 35, Issue 1, 39–74; Harold Schwartz, "Fugitive Slave Days in Boston," *The New England Quarterly*, 1954, Vol. 27, Issue 2, 191-212.
[10] Charles Stevens, *Anthony Burns: A History* (Boston, Massachusetts: John P. Jewett and Company, 1856).; Gordon S. Barker, *The Imperfect Revolution: Anthony Burns and the Landscape of Race in America* (Kent, Ohio: The Kent State University Press, 2010.; Earl M. Maltz, *Fugitive Slave On Trial: The Anthony Burns Case and Abolitionist Outrage*, (Lawrence, Kansas: University of Kansas Press, 2010).
[11] Ibid.
[12] Ibid.

Act. However, four months after Burns had been returned south and sold to David McDaniel of North Carolina, a neighbor, Reverend Stockwell, began negotiations to purchase Burns' freedom. In March, Burns returned to Boston, where he was lauded as a free man. Because of Burns' odyssey, Boston passed perhaps the most powerful personal liberty law yet, aimed at curbing the perceived legal excesses of the Act. Most notably, the new law barred claimants from using or residing on state property during cases, required a trial by jury rather than summary judgement by a commissioner, and demanded claimants produce two or more credible, unbiased witnesses in order to prove their case.[13] Despite significant openings for legal challenges to be leveled against this local ordinance, Burns' case was the last one held under the Act in Boston.[14]

If Boston took the gold medal in the race to find strategies that would chill or reverse the Act's newfound influence over free state communities, then we must consider the runners-up before placing Philadelphia on the podium. After all, Boston's success was highly atypical. Nationally, the methods and outcomes of resisting the Act generated a wide spectrum of results. Even where local successes truly arrested the Act, these limited victories did not reverse the broader reality—it would ultimately require civil war to repeal the Act. Nonetheless, long before a freedom seeker known only as "Jerry" found himself violently liberated from his jail cell, the city of Syracuse, New York had gained a reputation as a kind of national strategic reserve for abolitionist efforts. Famed abolitionist Gerrit Smith had brokered a powerful alliance between Reverend Samuel May's Unitarian congregation and a large local population of Quakers. The area would come to host such luminaries as Millard Fillmore, Frederick Douglass, and Harriet

[13] Ibid. U.S. Commissioners were appointed by the United States Supreme Court and were thus entirely unanswerable to the public in any political sense.
[14] Ibid.

Tubman. Thus, it is perhaps unsurprising that within hours of Jerry's arrest on the morning of October 1st, 1851, the Syracuse Vigilance Committee had surrounded the jail, doused the gas lights, and cowed his jailers into surrender.[15] The legal fallout from Jerry's successful removal to Canada proved surprisingly mild; U.S. Senator William Seward led efforts to pay bail for arrested suspects, and after years of delays only one out of twelve defendants was convicted on a minor charge.[16] Jerry's rescue became a point of civic pride in Syracuse. The city renamed a structure the "Jerry Rescue Building" and declared October 1st a day for annual celebration.[17]

A similar incident occurred in Milwaukee, Wisconsin on March 18th, 1854, when the case of Joshua Glove led to not only his successful extradition to Canada but also the only instance in which a state supreme court openly declared the Fugitive Slave Act of 1850 unconstitutional.[18] The later 1858 rescue of John Price in Ohio (better known as the Oberlin-Wellington Rescue) featured a series of similarly dramatic flourishes. While transporting the suspected fugitive from the staunchly abolitionist town of Oberlin to the slightly less militant Wellington, an anti-slavery mob stormed a hotel in Wellington, hid Price, and soon sped him off to Canada.[19] The resultant federal and state trials enjoyed extensive national newspaper coverage, including a tense standoff between federal and state authorities that resulted in indictments being withdrawn for thirty-five of the thirty-seven defendants.[20] Although the last two defendants objected to trial by an impartial jury, they were both convicted under the terms of the Fugitive Slave Act of 1850.[21]

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[15] Angela F. Murphy, *The Jerry Rescue: The Fugitive Slave Law, Northern Rights, And the American Sectional Crisis* (Oxford: Oxford University Press, 2016).; W. Freeman Galpin, "The Jerry Rescue," *New York History*, 26 (1), 1945: 19–34.
[16] Ibid.
[17] Ibid.
[18] H. Robert Baker, *The Rescue of Joshua Glover: A Fugitive Slave, the Constitution, and the Coming of the Civil War*, (Athens, Ohio: Ohio University Press, 2006).
[19] Roland Baumann, *The 1858 Oberlin-Wellington Rescue: A Reappraisal* (Oberlin, Ohio: Oberlin College Press, 2003).
[20] Ibid.
[21] Ibid.

One, a free Black Oberlin graduate and activist named Charles Henry Langston, delivered a damaging blow to the Act's reputation during his sentencing. His missive, delivered on the stand, was heard around the nation, insisting:

> We have a common humanity. You would [resist the Act]; your manhood would require it; and no matter what the laws might [do to] me, you would honor yourself for doing it; your friends would honor you for doing it; and every good and honest man would say, you had done right![22]

The court, whether moved by Langston's eloquence or in deference to the scrutiny his appeal to simple fairness inspired, reduced both men's sentences to short prison stays.[23] The last well documented escape that occurred during the Act's tenure was that of Charles Nalle, an enslaved man who escaped Virginia for Troy, New York, in 1858.[24] Having ingratiated himself with the local community in Troy over the course of two years, a crowd formed and turned violent once Nalle was arrested by local agents on April 27, 1860. After two violent clashes between the crowd and the authorities, Nalle walked away after his neighbors raised $650 to buy his freedom.[25]

However, the predominant scholarly emphasis on the various successes against the Act I have just enumerated constitutes a false focus, one with the potential to seriously misinform popular perceptions of both the Act and resistance against it.[26] To start, the majority of escapes

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[22] "Charles Langston's Speech at the Cuyahoga County Courthouse," Oberlin.edu, https://isis2.cc.oberlin.edu/external/EOG/Oberlin-Wellington_Rescue/c._langston_speech.htm
[23] Baumann, *The 1858 Oberlin-Wellington Rescue: A Reappraisal.*
[24] Scott Christianson, *Freeing Charles: The Struggle to Free a Slave on the Eve of the Civil War* (University of Illinois Press, 2010).
[25] Ibid.
[26] Jeffrey Rogers Hummel, and Barry R. Weingast, "The Fugitive Slave Act of 1850: Symbolic Gesture or Rational Guarantee?" SSRN Electronic Journal, 2006. This article provides a useful summary of the existing literature on the Fugitive Slave Act beyond that already mentioned, and in so doing demonstrates an overabundance of attention given to instances of successful slave rescue or escape, rather than the statistically more common occurrence of their capture and return.

and escape attempts remain either understudied or effectively forgotten. As a result, although successful resistance efforts by concerned citizens in places like New York or Massachusetts are undeniably stirring, they represent if anything the exception when one considers the regular reach and function of the Act of 1850. Jeffrey Hummel and Barry Weingast have contributed immensely to a reemphasis on the Maryland-Pennsylvania border in understanding the proslavery power bloc's insistence on passing the Fugitive Slave Law of 1850. By demonstrating the economic and political significance even small numbers of successful slave escapes had within this narrow regional band, the duo make a strong case that, in trying to answer the "so what?" of the Act, scholars have been looking in the wrong places.[27]

Reflecting on the existing historiography of the Act, Hummel and Weingast perceived a "paradox of slaveholders insisting upon a measure that was simultaneously unnecessary and counterproductive."[28] The pair rejected the assertion made previously by scholars such as James McPherson and Peter Geyl that the Act was effectively symbolic because slave escapes were vanishingly infrequent compared to the overall population ("1000 runaways in a year against three million slaves").[29] Instead, they emphasized that a far smaller population of enslaved people from a narrow range of states accounted for the vast majority of escapes, in contrast to what historians such as McPherson and Geyl previously assumed. Fugitives were in actuality almost exclusively healthy, young males escaping from the border or upper South states.[30] As a result, they argued, the political impacts and economic value of the Act can only be measured through a careful regional analysis of its effects. Hummel and Weingast found that while the national average risk of escape was a paltry .03 percent of the overall enslaved population, when

[27] Ibid.
[28] Ibid., 2.
[29] Ibid., 3.
[30] Ibid. 3-4.

controlled for sex, age, and location, the potential for a "prime age male" to escape in a given year from Delaware, for example, spiked to 5 percent.[31]

Having identified the outsized impact runways had on the economic security of upper South state slaveholders, Hummel and Weingast posited that the risk of escape to such slaveholders was significant enough to threaten not only individual fortunes but the political future of slavery itself. Faced in 1850 with the admission of California as a free state, with no clear proslavery counterpart fit for admission, proslavery politicians saw the Act, despite its extremity, as a "realistic effort… to maintain a secure home for the peculiar institution within a nation at best indifferent to slavery."[32] By insisting on a "draconian" fugitive slave law, southern Democrats treated the Act as a rational guarantee.[33] If the Congress would not consent to pass it, then they would know the old political coalition to preserve slavery had broken down, and more drastic measures would be needed. If, however, northern Democrats backed the bill, then it would both indicate that short-term stability had been regained and lay the groundwork to preserve the balance going forward by greatly increasing the property protections of slaveholders throughout the wavering upper South states.

As Conor Lennon subsequently confirmed through a statistical analysis of slave prices and runaway ads, the Act did just that. Although the political backlash to the Act did eventually lead to disunion, in the short term it also increased the average value of an upper South slave some "35 percent relative to [those in] Southern slave states" by providing an unprecedented form of Federal insurance against escape.[34] Even after controlling for other variables, the impact

[31] Ibid.
[32] Ibid., 3.
[33] Ibid., 2.
[34] Conor Lennon, "Slave Escape, Prices, and the Fugitive Slave Act of 1850," Journal of Law and Economics, Vol. 59., (August 2016): 669.

remains: "newspaper data shows a reduction in the number of runaways," despite the Act's publicly hounded enforcement efforts.[35] Perhaps the best way to synthesize this information in context of the historiography already provided is to note that the Act was more easily infringed upon in the North and increasingly irrelevant the further South one went. Thus, it is only along the border regions between free and slave states that the Act's influence was fully felt—and only here can its functioning and impact be fully measured. In this light, every state and city within this select belt of potential case studies acquires an historical urgency and significance that, at first glance, few would suspect.

Philadelphia as a Historiographical Blind Spot

Having broadly reviewed the existing scholarship on nationwide resistance to the Fugitive Slave Act of 1850, a conspicuous gap appears: *what about Pennsylvania?* Pennsylvania—and particularly the city of Philadelphia—certainly played a commanding role in hosting, developing, and directing the cascading sectional drama over slavery. Despite disagreements about the extent to which enemies of slavery should abide violence, both the Pennsylvania Abolition Society and the Pennsylvania Anti-Slavery Society operated out of the city and regularly supported each other's endeavors. From these two foundational organizations sprang a cast of recognizable resistors with a degree of national reach: Quaker abolitionist icons James and Lucretia Mott, wealthy Black abolitionist (and first Black member of the Abolition Society) Robert Purvis, and the chairman of the Anti-Slavery Society's Vigilance Committee—and celebrated scribe of the Underground Railroad—William Still, to name but a few.

[35] Ibid., 693.

However, to date no major work has attempted to systematically establish and evaluate the extent to which Philadelphia's fugitive slave court managed to carry out its mandate, nor to consider the reasons for—and implications of—such a conclusion. Indeed, the entire scholarly literature on Pennsylvania's reaction to the Act is fragmentary at best.[36] An understandable but outsized emphasis has been placed on the very earliest days of the Act's implementation in Pennsylvania, most notably the Christiana Resistance of September 11th, 1851. By the time it had run its course, and the single largest tranche of treason indictments in U.S. history came to naught, the sectional divide had widened palpably.[37] Without recounting the entire Christiana story, it is clear from the legal fallout that the incident did not represent a typical functioning of the fugitive slave courts in several respects, even as it proved an important early test of the federal government's will to enforce the Act.

Firstly, widespread Southern hysteria, fueled by specious newspaper accounts claiming everything from state-wide slave insurrection to the genital mutilation of the deceased Maryland slaveholder Edward Gorsuch, pressured prosecutors into grossly overcharging the suspects.[38] This problem was then compounded by the inability of a vengeful but ill-coordinated dragnet across Lancaster County to capture the *actual* fugitives in question. With the ringleader William Parker safely extracted to Canada, and his wife and children not far behind, the Grand Jury indictments handed down on November 14th were largely issued in absentia.[39] The few alleged co-conspirators actually in court custody were largely white, and rather than face the summary judgement of a fugitive slave court Commissioner, a nationally syndicated treason trial at

[36] See footnote 1.
[37] Thomas P. Slaughter, *Bloody Dawn: The Christiana Riot and Racial Violence in the Antebellum North* (New York: Oxford University Press, 1991).
[38] Ibid., 94-96.
[39] Ibid. See chapters 5 and 7.

Philadelphia's Circuit Court awaited.[40] However, the result of the pilot case—that of the Parkers' neighbor Castner Hanway—failed the statutory standards set for treason in Article III, Section 3, Clause 1 of the U.S. Constitution so glaringly that the prosecutor, U.S. Attorney for Eastern Pennsylvania John Ashmead, withdrew all further charges.[41] Clearly, neither the law nor its targets fit the Act's operational norm in this case.

To a lesser extent, the latter half of the court's existence, crucially during the period *after* Commissioner Ingraham's death on November 5th, 1854, has also drawn scholarly attention, namely Jane Johnson's (multiple) trials.[42] This dramatic outlier is essentially the only fugitive slave case heard in Philadelphia that has left a comparable historiographical footprint to, say, the Anthony Burns case of Massachusetts. William Still and Passmore Williamson of the Pennsylvania Antislavery Society's Vigilance Committee faced sentencing under the Act for failing to produce Jane or her children once they had been served a writ of *habeus corpus.*[43] The case proved incendiary, as it represented a rare, and procedurally suspect, invocation of Article 7 of the Fugitive Slave Act of 1850, which states those who inhibit the recovery of a fugitive slave are "subject to a fine not exceeding one thousand dollars, and imprisonment not exceeding six months, by indictment and conviction before the District Court of the United States for the district in which such offence may have been committed."[44] Yet, in an even more unusual turn of events, Jane not only returned to Philadelphia mere months after her escape—she testified on

[40] Ibid.
[41] Ibid., 135.
[42] Nat and Yanna Brandt, *In the Shadow of the Civil War: Passmore Williamson and the Rescue of Jane Johnson*, (Columbia, SC: University of South Carolina Press, 2007).; After his death, Ingraham's duties were assumed in the interim by Judge John K. Kane, and later—and quite ironically—by the son of the famed Abolitionist lawyer David Paul Brown. For more information, see Blackett, *The Captive's Quest for Freedom*, p. 354.
[43] Ibid.
[44] The Yale Law School Lillian Goldman Law Library, "Fugitive Slave Act of 1850," in *The Avalon Project: Documents in Law, History, and Diplomacy*, electronic database, https://avalon.law.yale.edu/19th_century/fugitive.asp.

behalf of William Still and his five associates to great effect.[45] In perhaps the zenith of Philadelphia's defiance of the Act, after the trial, Jane was safely escorted out of the city by state and local authorities.[46] As Chapter 2 will demonstrate, this instance of organized defiance by state officers, to say nothing of average outraged citizens, was very much a one-off event.

While the latter half of the Philadelphia Fugitive Slave Court's lifespan is certainly worthy of exploration, I have opted to leave that to future scholarship for two reasons. First, one cannot adequately interrogate the court's later years when its early years are still underexplored. Second, the court's latter years coincided with a combination of legal victories and political inertia that hardened both the Act's *de facto* and *de jure* legitimacy. Between *Dred Scott v. Sanford* (1857) settling the procedural questions surrounding Black legal standing and *Ableman v. Booth* (1859) rubberstamping the Act and its landmark enforcement powers, the juridical landscape Ingraham's successors faced barely resembled that of the preceding years.

A small body of literature has recently emerged regarding the role of Philadelphia's Quaker community in resisting the Act, such as Brian Temple's *Philadelphia Quakers and the Antislavery Movement* (2014), and Carol Faulkner's *Lucretia Mott's Heresy: Abolition and Women's Rights in Nineteenth-Century America* (2013).[47] A string of works have variously addressed the prevalence of free Black communities across southern Pennsylvania, along with the Anti-Slavery and Abolition societies of Pennsylvania, to repel both legal and illegal kidnappings across the state, such as Stanley W. Campbell's *The Slave-Catchers* (1970), Thomas Slaughter's *Bloody Dawn* (1991), Cheryl LaRoche's *The Geography of Resistance* (2014), Milt

[45] Nat and Yanna Brandt, *In the Shadow of the Civil War*.
84[46] Ibid.
[47] Brian Temple, *Philadelphia's Quakers and the Antislavery Movement* (Jefferson, North Carolina: McFarland & Company, Inc., 2014).; Carol Faulkner, *Lucretia Mott's Heresy: Abolition and Women's Rights in Nineteenth-Century America* (Philadelphia: University of Pennsylvania Press, 2013).

Diggin's *Stealing Freedom Along the Mason-Dixon Line* (2015), James A. Delle's *The Archaeology of Northern Slavery and Freedom* (2019), and R. J. M. Blackett's *The Captive's Quest for Freedom* (2018).[48] Of these entries, only the latter even begins an attempt at systematically interrogating both the Ingraham court and its detractors in tandem. Blackett dedicates two chapters of his book to a discussion of Pennsylvania's role in age of the Act, but he limits his contributions by focusing heavily on the Harrisburg court to the exclusion of Philadelphia's, which receives roughly half a chapter of consideration.

The records of Ingraham's court, and its successor courts under Judge John K. Kane's and David Paul Brown, Jr., seemingly do not survive. In reality, a few remnants of Philadelphia's fugitive slave courts remain under the National Archives' Record Group 21 as part of the records for the U.S. District Court of Eastern Pennsylvania. However, they are insufficient for any analysis of how the court's procedures and rulings changed over time. In comparison to Blackett's assertion that "an estimated twenty-one hearings [took place] in the city in the ten years following the passage of the law," the Fugitive Slave Case Files for Eastern Pennsylvania contain some twenty-three documents, pertaining to just eight cases.[49] Of these eight case files, only one (that of Henry Garnett) dates from Ingraham's tenure, and even this case was adjudicated by Associate Supreme Court Justice Robert Grier, not Commissioner Ingraham.[50]

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[48] Stanley W. Campbell, *The Slave Catchers: Enforcement of the Fugitive Slave Law* (University of North Carolina Press, 1970).; Thomas P. Slaughter, *Bloody Dawn: The Christiana Riot and Racial Violence in the Antebellum North* (New York: Oxford University Press, 1991).; Cheryl Janifer LaRoche, *The Geography of Resistance: Free Black Communities and the Underground Railroad* (Champaign, Illinois: University of Illinois Press, 2014).; Milt Diggins, *Stealing Freedom Across the Mason-Dixon Line: Thomas McCreary, the Notorious Slave Catcher from Maryland* (Baltimore, MD: Maryland Historical Society Press, 2015).; James A. Delle, *The Archaeology of Northern Slavery and Freedom*, (Tallahassee, Florida: University of Florida Press, 2019).; R.J.M. Blackett, *The Captive's Quest for Freedom: Fugitive Slave*s, *the 1850 Fugitive Slave Law, and the Politics of Slavery* (Cambridge: Cambridge University Press, 2018).

[49] Blackett, *The Captive's Quest for Freedom*, p. 337.; National Archives and Records Administration, "Fugitive Slave Case Files for the Eastern District Court of Pennsylvania," Record Group 21. The National Archives' staff have not been able to ascertain why this documentary gap exists.

[50] Ibid.

Just what caused the Ingraham court's virtual erasure remains, unfortunately, a matter of speculation. Inquiries made at the National Archives produced no additional information on the court files' chain of custody. However, as William Blair has documented throughout the Reconstruction era, telling "the story of the record itself" is no mean feat, particularly where information and politics collide.[51] Although Blair's work on the Freedmen's Bureau records describes a different set of circumstances from those of antebellum Philadelphia, it is reasonable to suggest a similar interplay between materials and motives might account for the diminished state of Ingraham's court. Considering that the reputation of many elite Philadelphians was surely woven throughout the records, it would make sense that a period of selective forgetting could have followed the repeal of the Act, emancipation, and the end of the war. Other documentary sources in post-war Philadelphia hint at an uneven process of remembrance where resistance to or appeasement of the Act is concerned. For example, only one image of Ingraham is known to survive—a small portrait seemingly given as a token of affection to an unknown party.[52] Conversely, at least four separate photographs, prints, or portraits of his legal nemesis, David Paul Brown, survive, including a portrait held by the National Portrait Gallery in Washington, D.C. that was gifted by an Eva Brown in 1896.[53] The former likely survived by accident, either as part of another person's papers, or in one of Ingraham's many books

[51] William Blair, *The Record of Murders and Outrages: Racial Violence and the Fight Over Truth at the Dawn of Reconstruction*, (Chapel Hill, NC: The University of North Carolina Press, 2021), retrieved April 19, 2023, https://www.hoopladigital.com/play/14589133. This eBook edition did not contain page numbers. For the above citation, see the tenth paragraph of the introduction.

[52] The Miriam and Ira D. Wallach Division of Art, Prints and Photographs: Print Collection, The New York Public Library, "Edward D. Ingraham," New York Public Library Digital Collections, accessed April 23, 2023, https://digitalcollections.nypl.org/items/510d47e0-074e-a3d9-e040-e00a18064a99.

[53] Henry Inman, *David Paul Brown*, c. 1830-1835, The Catalog of American Portraits at the Smithsonian Institute's National Portrait Gallery, Washington, D.C., oil on canvas. This portrait is held jointly by the National Art Gallery and the Pennsylvania Academy of the Fine Arts. Additionally, the Library Company of Philadelphia's African Americana Photographs Collection includes an 1861 carte de visite photograph of Brown. A second portrait, produced by John Neagle at an unknown date is publically held by the WikiArt Visual Art Encyclopedia, while a print reproduction of the same is held by the Massachusetts Historical Society in their Portraits of American Abolitionists Collection.

auctioned shortly after his death. The latter exists because a caring relative and grateful city deemed Brown's memory worth preserving and celebrating.

Whatever the truth, the lack of relevant sources surrounding both Commissioner Ingraham and the case files his court produced suggest that both the man and his court died in obscurity as much as infamy. While the broad strokes of Ingraham's career can be reconstructed from Bar Association records and obituaries (see Chapter 2) nearly nothing of his personal papers or legal decisions survives. Beyond a couple of early, unrelated opinions from his time as a practicing attorney anything substantive that might indicate his juridical style or influences as a legal thinker is relegated to the realm of newspaper reports, obituaries, and educated guesses.

Presumably for these reasons Blackett relies exclusively on newspaper accounts, and occasionally publications by Philadelphia's assorted anti-slavery organizations, to substantiate his interpretations. However, his treatment of the topic is severely limited; not just by a thin variety of sources, but also by his attempt at quantifying the court's caseload as a means of tracking its evolution over time. Of those twenty-one cases that Blackett identifies, not only is Henry Massey's not among them: there are no entries at all for the entire year of 1854.[54] He admits this number is merely an estimation. However, the mere fact of Henry Massey's existence provides the proof of this estimate's incompleteness. This persistent blind spot, in turn, throws his entire analysis of the pace of enforcement (and thus the relative success or failure of the Act and its opponents) into question.

I seek to revisit the topic through a new methodology. While Blackett accurately concludes that "those who fled slavery and those who sheltered them demonstrated that those

[54] Blackett, 337.

who put their faith in the law to stop the flow of fugitive slaves were sadly mistaken," he does not provide the kind of biographical and institutional cross-examination that would illuminate the lived experiences of those in the courtroom—the counsel, the commissioner, the fugitive—beyond newspapers.[55]

Additionally, by failing to consider defendants' likely expectations in favor of the numbers of cases won and lost, Blackett obscures perhaps one of the most important markers of success for those fighting back in Philadelphia: whether they genuinely believed their strategies might succeed, or that no alternate strategies were open to them. Such an inquiry lends itself to an analysis of how the interplay of Black and white resistance organizations in the city might have alternatively helped and hamstrung each other's efforts—a worthwhile case study for both the scholars and practitioners of racial justice activism today. Instead, by approaching the topic from such an orbital position, Blackett arguably overemphasizes the deep exhaustion felt by Philadelphia's resistors in the latter years of the Act, rather than the cooperation and optimism that, although flawed, produced a "remarkable sustained opposition to the Fugitive Slave Law" for the better part of a decade.[56]

For these reasons, I argue that a joint history of the Ingraham court and its detractors cannot be written through the traditional metrics of institutional or legal history. The archives that would support such a mission are too heavily degraded. Indeed, one could argue that It is this archival dearth that has led far less representative cities, in terms of size and proximity to the border, to dominate the historiography of the Fugitive Slave Law thus far. Only by overcoming

[55] Ibid.
[56] Ibid., 354. As indicated above, it is reasonable to assume that Dred Scott v. Stanford and Ableman v. Booth had more to do with the diminishing returns experienced by Philadelphia's antislavery activists over the second half of the decade than institution and personal "exhaustion," though that surely did not help matters.

these dual archival silences—the intentional erasure of fugitive's voices and the inadvertent loss of institutional records—can we return Philadelphia to its rightful place in the story of the Act.

Returning to Hummel, Weingast, and Lennon's observations; due to its position along the most contested part of the free state/slave state divide, properly understanding the degree to which the Act succeeded or failed in Philadelphia is necessary to understand how and why it ultimately required more than a decade, and a civil war, to abolish it. Reaching that end requires observers. While previous authors have reconstructed the stories of captured freedomseekers to explore the Ingraham court's decidedly rocky inauguration, until now no documented freedomseeker has been positioned to do the same for the court's final days. Sentenced by Commissioner Ingraham and returned to Maryland barely a month before the Commissioner's death, Henry Massey is perhaps the only person who can adequately judge the impact that four years of dogged resistance had had on the Ingraham court. Although his thoughts were never directly recorded, in the context of his life, escape, capture, and trial we can begin to evaluate what impact a flawed but furious coalition of Philadelphians had on the court that condemned him.

First Freedom: Henry Massey's Escape from Kent Island

Situated on Kent Island in the upper reaches of the Chesapeake Bay, the land surrounding a three-story Georgian manor home called Stoopley Gibson has borne witness to many of the unique intersections of Maryland's history. The island itself bears special significance as the oldest permanent colony site in the state, and its inherently isolating geography shaped the history of both the manor and the enslaved persons who labored in its fields and halls. Although

the site is today an historic home, housing development, and National Park Service Network to Freedom Site, the property should perhaps be better known as *Henry Massey's* ancestral homestead, rather than the personal barony of the Bright family. Unfortunately, although Henry Massey and his compatriots quite literally *made* Stoopley Gibson, without written accounts of their experiences their footfalls can only be inferred through the records of their enslavers. Additionally, I have taken pains to offer transparency about where I can offer only plausible explanations rather than clear verification for Massey's key life experiences, such as his birth, his education, or his relationships.

The first reference to what would become Henry Massey's likely birthplace appeared in a land grant made on November 12, 1656 between Henry Stoupe and John Gibson for some 150 acres.[57] The property was then expanded, divided, and transferred repeatedly throughout the rest of the century before being re-surveyed in 1730 for Francis Bright [Sr.] at 200 acres.[58] The property would stay within the Bright family until 1868, throughout Henry Massey's first and second slaveries.[59] The first known presence of enslaved individuals on the land comes from the 1776 census, which reported Francis Bright [Sr.] as owning seven slaves.[60] By 1790, Francis Bright, Jr. held eleven people in bondage on the estate.[61] However, by the time Henry Massey's name first appears in the historical record—1845—Francis Bright, Jr.'s son, James, lists twenty-

[57] Rent Roll, Isle of Kent County, North East Hundred, folio 11. Retrieved from Maryland Historical Trust, Determination of Eligibility, 1979.
[58] Patented Certificate 996, Stoopley Gibson, Francis Bright, 200 Acres, patented September 5th, 1732, MSA S1204-1015. Accessed via PLATS.NET on April 10, 2021.
[59] Maryland Historical Trust, Determination of Eligibility: Stoopley Gibson (White's Heritage), Chester, Kent Island, Queen Anne's County, Maryland, QA-222, 1979 (Revised 2006), pp. 8-11.
[60] Council of Safety. Census of 1776. Maryland State Archives, Box 2, folio 20. Retrieved from Determination of Eligibility, 1979.
[61] 1790 Census of the United States, Maryland State Archives, Microfilm Reel M2053-1. Retrieved from Determination of Eligibility, 1979.

eight enslaved people in his will.[62] Many had been born or bought recently. The two 1840 slave schedules that exist for James and his son, James Jr. are not clearly attributed, but they show that James either owned only eight or eleven slaves just five years before.[63] Those same slave schedules help corroborate Henry Massey's sense of his year of birth. In both the 1870 and 1880 censuses listed his age as 35, which, though contradictory, suggest that the number loomed large in his memory, indicating an 1835 birth date.[64] Assuming that the larger slave schedule is that of James [Sr.] further corroborates Massey's recollection—there is just one enslaved male under the age of ten listed in 1840.[65]

It is unknown when Henry Massey's family first stepped foot on the estate, but it is clear from the names of the enslaved enumerated in both Francis Jr.'s 1803 will and his son James [Sr.]'s 1845 will, that certain family groups had long roots on the property. This was likely a consequence of the island's extreme isolation and lack of agricultural expansion compared to the average plantation economy.[66] An enslaved woman named "Pegg" in the 1803 will appears again in the 1845 will as "Margaret or Peg [the Elder]," alongside her daughter, "called Margaret or

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[62] James Bright, "Last Will and Testament of James Bright" (1845), Liber T.C.E., No. 2, Folio 266, Queen Anne's County Register of Wills. Accessed April 8, 2021, at Queen Anne's County Courthouse, Centreville, Maryland. Note: At the moment, no materials written or dictated by Henry Massey are known to survive. Newspapers from his 1854 freedom trial in Philadelphia record that he provided an affidavit of his personal history and activities in Harrisburg, PA, but at the time of writing this document has not been recovered.

[63] 1840 Census of the United States, 4th Election District, Queen Anne's County, Maryland, digital image s.v. "James Bright," Ancestry.com. Accessed February 8th, 2021.; 1840 Census of the United States, Maryland State Archives, Microfilm Reel m4723-2. Retrieved from Determination of Eligibility, 1979. Note: the author was unable to access the alternate 1840 census entry for James Bright via ancestry.com, or via the Maryland State Archives due to their COVID pandemic closure.

[64] 1870 Census of the United States, Crumpton, Queen Anne's County, Maryland, digital image s.v. "Henry Massey," Ancestry.com. Accessed January 21st, 2021.; 1880 Census of the United States, Dixon, Queen Anne's County, Maryland, digital image s.v. "Henry Massey," Ancestry.com. Accessed January 21st, 2021.

[65] Ibid.

[66] Paul G. E. Clemens, "Chapter 6: Agricultural Diversification," in *The Atlantic Economy and Colonial Maryland's Eastern Shore: From Tobacco to Grain*, (Ithaca, NY: Cornell University Press, 1980), pp. 168-205. Accessed April 20, 2021. http://www.jstor.org/stable/10.7591/j.ctvv413gw.

Peg the Younger."[67] Likewise an "Emory" and a "Sall" appear across both. Other, less unique given names (such as "John") also repeat between the wills, further hinting at the geographically static, generational nature of slavery of Kent Island.[68]

Records from the period only inconsistently documented the given names of enslaved individuals, much less both given *and* surnames. The Bright family wills were no exception. As such, cross-referencing those enslaved individuals listed in the 1845 will without surnames against the 1870 and 1880 censuses remains the best way to flesh out the contours of Henry Massey's family unit. Doing so reveals how the power of names served as a source of continuity, heritage, and remembrance for the enslaved and recently freed alike. The only other Massey named as such in the 1845 will is a Mary Massey, who was likely Henry's sister. She appears on the 1870 census as living in Queen Anne's County, aged 36 (one year older than Henry), and intriguingly has a 4-year-old son named "Pere," an uncommon name.[69] That another "Pere" is listed amongst the enslaved in the 1845 will suggests the child was named in memory of her father.[70] Remarkably, Henry Massey did the same in honor of his sister when he named his own daughter—born 1863—"Mary."[71]

The enslaved of Stoopley Gibson also demonstrated their long memories and deep concern for one another by maintaining kinship ties and reciprocity between separate family

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[67] Francis Bright, "Last Will and Testament of Francis Bright" (1803); James Bright, "Last Will and Testament of James Bright" (1845).
[68] Ibid.
[69] 1870 Census of the United States, Crumpton, Queen Anne's County, Maryland, digital image s.v. "Mary Massey," Ancestry.com. Accessed April 21, 2021.
[70] James Bright, "Last Will and Testament of James Bright" (1845). Whether Pere was Henry and Mary's biological father or a father figure, the evidence for an emotional connection remains.
[71] 1870 Census of the United States, s.v. "Henry Massey," Ancestry.com.; For many of the formerly enslaved, their only words that survive are the names they gave their children, which in turn ended up in the census rolls. These names were sources of identity and continuity and provided one of the only ways the survivors of slavery could drag the spirits of those who did not survive out from slavery and into living memory. As such, I hesitate to discount the repetition of names—particularly uncommon ones—across generations as mere coincidence.

groups long after the Institution had been abolished. Notably, Henry Massey's household in 1880 includes not just his wife, Amand, but an 18-year-old Black man named Elijah Sliney.[72] Henry grew up alongside a Mary Ann Sliney—and likely other members of the Sliney family—while enslaved at Stoopley Gibson.[73] In the 1870 and 1880 censuses, only a handful of Sliney's lived in the county, largely clustered around the town of Dixon.[74] That Henry and Amand Massey were working respectively as "laborer" and "servant" to Eughene and Mary Cooper, a white couple living *in* Dixon Maryland, and had moved there from their previous home on the other side of the county since 1870, seems to be more than just a coincidence.[75] Word of work passing amongst those the formerly enslaved of Stoopley Gibson led the Massey's to Dixon, although who told who first is lost to history.

Slavery on Kent Island remained agricultural only in a vestigial sense. With no hope for geographic expansion, and in keeping with the larger trend of Upper South states withdrawing from the cash-crop market, the landed families of Kent Island largely produced garden crops for both sustenance and sale on the mainland.[76] Most of their wealth was derived from investments in their own real estate and displayed by the number of slaves they owned. In all likelihood, male slaves at Stoopley Gibson would have had some training in both agricultural and constructive, skilled or semi-skilled labor. Having run away at age 14, Henry would not have had the time to complete any serious apprenticeship in woodworking or any other trade. Within this context, what we know of Henry Massey's education and skillset post-Emancipation makes great sense;

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[72] James Bright, "Last Will and Testament of James Bright" (1845); 1880 Census, s.v. "Henry Massey," Ancestry.com.
[73] Ibid.
[74] 1870 Census of the United States, s.v. "Sliney," Ancestry.com.; 1880 Census of the United States, s.v. "Sliney," Ancestry.com. Results were filtered by race and locations compared.
[75] 1870 Census, s.v. "Henry Massey," Ancestry.com.; 1880 Census, s.v. "Henry Massey," Ancestry.com.
[76] Paul G. E. Clemens, "Chapter 6: Agricultural Diversification," in *The Atlantic Economy and Colonial Maryland's Eastern Shore: From Tobacco to Grain*, 1980.

he's listed as an illiterate "Farmhand" in the 1870 census, but a *literate* "laborer" for the Cooper's small household and holdings in 1880.[77] This suggests that Henry, by 1880, had educated himself out of the fields and into domestic work.

Class considerations informed what skills Henry Massey and his fellow slaves were raised with. They also informed the cruel logic that was used to break up Massey's family when James Bright, Sr. died between 1845 and 1847.[78] James's affluence and calculating business sense clearly overrode any moral concerns when he decided in his will which of his slaves would go where. The sons were gifted five enslaved people apiece, the majority of whom were male, in order to better provide agricultural and manual labor to the sons' own aspirational plantations.[79] James' daughters and granddaughters, however, were gifted *servants*, particularly in the event they were already married. Indicatively, while Henry was given to Joseph F. Bright, Henry's sister, Mary, was one of two female slaves given to James's daughter, Susan Bryan.[80] Every enslaved family unit at Stoopley Gibson suffered the same fate as the Massey's; they were scattered across the county based on their utility to the extended Bright family.[81] Under such conditions, enslaved people often asserted themselves as best they could by choosing the uncertainties of escape over the certainty of sale. Further, a precedent for escape existed amongst

[77] 1870 Census, s.v. "Henry Massey," Ancestry.com.; 1880 Census, s.v. "Henry Massey," Ancestry.com.
[78] The exact date of James's death is unclear. His will was written in 1845, and executed in 1849, but the Baltimore Sun's September 27, 1854 coverage of Massey's case states that it was testified in court that Massey had run away "about two years" after James's death. Without an official record of his death, the exact date remains a mystery. Whatever the case, it is likely that the process of breaking up his estate did not start until his wife, Susannah, died in 1849—hence the date of execution for the will.
[79] James Bright, "Last Will and Testament of James Bright" (1845).
[80] Ibid.
[81] Ibid.

those enslaved on the Bright plantation; on October 11th, 1794, Francis Bright, Jr. posted a runaway notice for a man named Watt, his wife Betty, and their two-year old son, Jim.[82]

Without access to Henry Massey's 1854 affidavit, little is currently known of the details of his escape, or his life in Harrisburg.[83] Determining the exact date of his escape is likewise complicated by the fact that no repository in the state of Maryland or known to the Library of Congress currently has the 1849 run of the Centerville-based *Maryland Sentinel*, also published as the *Centerville Sentinel*. However, a cropped, recycled portion of the original runaway ad placed by Franklin and James [Jr.] Bright in the *Sentinel* was syndicated in Baltimore, New York, New Orleans, and Lisbon, Ohio.[84] The earliest of these, published in the *Baltimore Sun* on October 26th of that year under the banner "WHOLESALE ABSCONDING OF SLAVES FROM MARYLAND," trumpeted the *Sentinel*'s lament that

> If something is not done, and that speedily too, there will be but few slaves remaining on the Eastern Shore of Maryland in a few years. They are running off almost daily. Four sets of bills offering rewards for runaway negroes were printed by us last week…. Messrs. James and Franklin Bright offer the same [$200] for another, belonging to the estate of their father.[85]

Taking that "last week" comment and factoring in time for the local news to reach the *Sun*, it is highly likely that Henry Massey made his escape in early October. In fact, his escape seemed to be part of a wave of escapes by at least ten enslaved people that week, which affected

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[82]"TWENTY DOLLARS REWARD," *Delaware and Eastern Shore Advertiser* (Wilmington, DE), Oct. 11, 1794.; Little is currently known of the results or details of this escape, but of all the newspaper databases scoured by the author, this was the only escape from Stoopley Gibson that could be identified other than Henry Massey's.
[83] Henry Massey does not appear in the census records of any of Harrisburg's wards for 1850. Additionally, although newspapers of the time repeatedly stated that Commissioner Ingraham had requested a written (or dictated) affidavit from Henry Massey, a highly unusual request for the time and venue, such a document has not survived.
[84] "Wholesale Absconding of Slaves from Maryland," *Baltimore Sun* (Baltimore, MD), Oct. 26, 1849; "Escape of Slaves," *New York Tribune* (New York, NY), Oct. 29, 1849; "Escape of Slaves in Maryland," *New Orleans Crescent* (New Orleans, LA), Nov. 3, 1849; "Escape of Slaves," *Anti-Slavery Bugle* (Lisbon, OH), Nov. 11, 1849.
[85] "Wholesale Absconding of Slaves from Maryland," *Baltimore Sun* (Baltimore, MD), Oct. 26, 1849.

even the wealthiest and most established families in the county, including the "Lloyd[s]" and "Tilghman[s]."[86] Indeed, Queen Anne's County's network of conductors apparently evaded the authorities' detection so regularly that the *Sun* reported an

> "announcement that a convention of slaveholders is seriously talked of in this State, to devise means for stopping the constant absconding of slaves."[87]

It is unclear how much outside assistance Henry Massey received during his escape. Certainly, branches of the Underground Railroad operated in Queen Anne's County. However, most of the better documented branches went overland and terminated in safehouses over the Delaware border. One notable example of this was the Delaware conductor John Hunn, who on December 27th, 1845, aided Samuel Hawkins, a freeman, and his wife and children (who were enslaved) by occupying the capture party long enough for a local judge to nullify the capture order.[88]

However, considering that Massey's flight started on Kent Island and ended in Harrisburg, he likely did not use one of these land routes. A very small earthen causeway across Kent Narrows amounted to the only land bridge off of the island.[89] As the 1866 county map of Kent Island shows, to reach the causeway on foot from the Bright estate, one would have to navigate the most densely populated spot on the island: Sharktown and its oysterman shacks.[90] Doing so exposed a person to heavy surveillance without any real chance at anonymity.

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[86] Ibid.
[87] Ibid.
[88] William Still, *The Underground Rail Road: A record of facts, authentic narratives, letters, &c., narrating the hardships, hairbreadth escapes and death struggles of the slaves in their efforts for freedom* (Philadelphia: Porter & Coates, 1872), eBook accessed via Project Gutenberg, April 9, 2021. Pages not numbered in this electronic edition.
[89] Brent Lewis, *Remembering Kent Island: Stories from the Chesapeake* (Charleston, SC: The History Press), 2009, p. 108.
[90] J. G. Strong, "Queen Anne's County District 4," 1866, MSA SC 5080-1. Accessed via the Legacy of Slavery in Maryland Project on March 4, 2021.

Likewise, Kent Island had no railway branch until 1902 saw a leisure line installed.[91] As might be expected of an island in the Chesapeake Bay, ferries and other larger boats provided the only real means of escape. The reporting surrounding his escape makes no mention of a boat of any size being stolen by a freedom seeker, so he almost certainly stowed away or was smuggled aboard one of the many day ferries that frequented Kent Island's ports to points across the Bay. Three such ports are known to have existed at the time, but the closest to the estate would have been the steamboat wharf at about the halfway point of the Love Point peninsula, on the Chester River side. Unfortunately, very little documentation survives regarding Kent Island's ferries before the 1880's.[92] As such, the details of how Massey made it to Harrisburg or where he might have stopped along the way remains unknown.

Friends, Enemies, and the Guardrails of Resistance

Although Henry Massey's activities during his five years in Harrisburg are impossible to specify, a cascading series of events imbued those same five years with immense emotional significance for Pennsylvanians as a whole. Although the political origins of the Fugitive Slave Act of 1850 are too complex to consider appropriately within this thesis, understanding the prevailing *perceptions* of the Act amongst influential Pennsylvanians (leaving aside their objectivity), is essential for understanding what kind of city—and what kind of allies—Henry Massey would have found in Philadelphia. To put it simply, as slave state politicians made their

[91] Brent Lewis, *Remembering Kent Island: Stories from the Chesapeake* (Charleston, SC: The History Press, 2009), p. 108.
[92] Ibid, pp. 108-112; Lawrence L. Morris, "County Commissioners Special Day at Queenstown: Transportation Report," April 24, 1976. Accessed at the Kent Island Heritage Room at Queen Anne's County Library, April 13, 2021.

push to pass the Act into law, Pennsylvania stood ready to rebuke every sign of southern hysteria or bad faith written the bill—but only within certain parameters.

Pennsylvania's Governor at the time of the bill's consideration, the Whig William F. Johnson, personally opposed slavery as a member of that party's Free-Soil faction. In January and February of 1850, Johnson received public letters from the state assemblies of Georgia and Virginia that aimed to shame and intimidate Pennsylvania's leadership into offering their support for a tranche of pro-slavery conditions in Congress, most notably expanded federal protections for recovering slave property.[93] Johnson's response in defense of Pennsylvania attempted to walk a fine line between celebrating Pennsylvania's anti-slavery, anti-kidnapping legacy and reassuring his southern counterparts that his state's anti-kidnapping laws did not violate their obligations under the Constitution. That task proved difficult; Virginia and Georgia's accusations contained almost prophetic threats. Georgia stated that the "continued refusal of the non-slaveholding States to deliver up fugitive slaves as provided in the Constitution" would soon trigger the "immediate and imperative duty of the people of this State to take into consideration the mode and measure of redress," including the "possibility of a dissolution."[94] Virginia concurred, warning that "loyal as she is and always has been, it were a fatal error to suppose that Virginia will ever consent that that Union… shall be converted into an instrument of degradation and oppression."[95] Virginia took things a step further, threatening to join a secession convention alongside her fellow slave states, for "the adoption of measures that may be necessary to provide for their mutual defense or to secure their common safety."[96]

[93] "Message of Governor Johnson in Defense of Pennsylvania," (Philadelphia: Crissy & Markley, Printers, 1850).
[94] Ibid., 14.
[95] Ibid., 12.
[96] Ibid.

In response, Governor Johnson offered a tongue-in-cheek rebuttal, backed up by the receipts of every major state or federal law referenced in the course of his speech, to ensure that "no truthful accusation of a willful and wanton breach of the Constitution… shall stain the social history of Pennsylvania."[97] Having summarized the charges laid at his state's feet, Johnson concluded, "questions connected with the slavery of the colored race, have given origin to these complaints."[98] Although Johnson admitted that "if [slavery] were *now* to be established… it would be our duty to enter our solemn protest against its introduction or recognition," he conceded that the Constitution, "having guaranteed to a certain extent, the existence of slavery," provided slaveholders' "peculiar property" certain protections.[99] Reminding his opposites that "Pennsylvania had been a slave-holding state… by the cupidity of our British ancestors," Johnson observed that the same act that abolished slavery in Pennsylvania "makes provision for the protection of the property of non-residents , in slaves… for a period of six months."[100] In this and many other ways, Johnson argued, Pennsylvania had upheld her end of the constitutional bargain, even when under duress. When wounded and outraged by "the alien and sedition laws," the "extension of slavery over portions of… the Louisiana purchase, although in direct opposition to her united and solemn protest," and the "prostration of her industrial pursuits" by slavery's expansion, Pennsylvania refused to threaten secession for want of getting her way.[101] Then, Johnson turned the accusation back on his attackers:

> The refusal on the part of certain slaveholding States to deliver up, although required to do so, by express provision of the Constitution, kidnappers, whose wrong-doing was against the very sovereignty of the Commonwealth, furnished,

[97] Ibid., 3.
[98] Ibid., 4.
[99] Ibid.
[100] Ibid.
[101] Ibid., 10.

> in her opinion, no valid reason for assembling conventions to disrupt the confederation of the states.

So, in a phrase, what excuse could Virginia and Georgia possibly have for such hysteria?

Beyond merely making his political bones through a half-diplomatic, half-derisive takedown of the pro-slavery coalition's obvious hypocrisy, Johnson was in fact articulating a nuanced argument against slavery for Pennsylvanians to rally around regardless of their personal feelings about the institution. Time and again in his speech, Johnson articulated three elements that resistance organizations such as the Pennsylvania Abolition Society, Pennsylvania Anti-Slavery Society, its associated Vigilance Committee, local elements of the Society of Friends, and the First Unitarian Church would all echo at various points over the coming years as they coordinated to derail the Act.

First, he cemented living Pennsylvanians within a long and noble legacy of breaking chains, one which he argued had rightfully resulted from the intense religious awe and gratitude the state experienced after the tide of the Revolution began to turn. Alongside repeated portrayals of slavery as a foreign, British contaminant, he also referenced the "strong and appropriate language" of Pennsylvania's Act of 1780 as a common source of Pennsylvanians' conviction to oppose the immortality of slavery where possible:

> We are unavoidably led to a serious and grateful sense of the manifold blessings which we have undeservedly received from the hand of the Being, from whom every good and perfect gift cometh…. We conceive that it is our duty, and we rejoice that it is in our power, to extend a portion of that freedom to others…. It is not for us to enquire why, in the creation of mankind, the inhabitants of the several parts of the earth were distinguished by a difference in feature or complexion. It is sufficient to know, that all are the work of an Almighty hand.[102]

[102] Ibid., 16. A copy of the Act of 1780 was appended by Govern Johnson to his speech.

Second, where Pennsylvanians' desire to oppose slavery seemed constrained by the Constitutional contract (as earlier cited in his rebuttal) Johnson portrayed forbearance and a focus on Commonwealth rather than national law as virtuous. While undoubtedly motivated by the fear he might exacerbate southerners' grievances to a point of no return, Johnson defended this position from the vantage point of constitutional obligation rather than political sense. However, as Jeffrey M. Schmitt has written, the decision to portray the Fugitive Slave Act as clearly constitutional and binding was inherently a political choice.[103]

Indeed, Schmitt describes the rhetoric of the Act's constitutionality as a legal fiction, that

> …the constitutionality of the fugitive act was ambiguous; meaning that neutral legal principles supported a ruling against the fugitive act as well as a ruling in favor of it, and that prominent antislavery judges were influenced to uphold the act by a belief that doing so was necessary in order to preserve the Union.[104]

By intentionally placing the constitutional contract above any moral imperative to end slavery, Johnson's speech challenges Schmitt's assertion that such appeals to "judicial positivisim… which trumped morality and natural law, [and thus] dictated a proslavery result," were likely an "ex-post justification rather than an ex-ante motivation for their decisions."[105] In other words, when Johnson publicly endorsed the idea of the Act's assumed constitutional inviolability, he knowingly put up policy guardrails that would influence, and often chill, any future discussions about the methods by which Pennsylvanians might resist the Act.

However, Johnson did not suggest that it would be easy or even possible for Pennsylvanians to submit to the Act as these southern governments envisioned it. Rather, his

[103] Jeffrey M. Schmitt, "The Antislavery Judge Reconsidered," *Law and History Review*, Vol. 29, No. 3 (2011): 797-834.
[104] Ibid., 798.
[105] Ibid.

argument set out a third guideline for navigating the sectional divide over slavery: procedural fairness in the legal process. If a new, expanded fugitive slave act could [provide] "due proof of the correctness of the claim of the reputed owner," then it would "receive the sanction of our citizens."[106] However, Johnson warned his southern counterparts, in no uncertain terms, that "No enactment would satisfy the citizens of Pennsylvania, that failed to require strict proof of the right of the master."[107] This appeal to legal fairness and accountability was designed to cut across partisan lines, as it foreshadowed consequences for more than just suspected fugitives if expanded federal power could "impose the performance of duties upon [Pennsylvania's] municipal and judicial officers, without her consent" towards blatantly political ends.[108]

By September of 1851, with the first cases brought under the Act of 1850 already heard by commissioners across the state, the Maryland slaveholder Edward Goresuch's murder by armed freedom seekers in Christiana, Pennsylvania seemed to indicate that all of Johnson's worst fears had already become reality. Indeed, it would be a mistake to underestimate what a threat the fallout posed to Governor Johnson's moderate framework for opposition to the Act.[109] While this study has already addressed Christiana's national significance, that significance became more and more abstract the further one was from the Mason-Dixon line. Regionally, it prompted armed mobs of outraged Marylanders and Pennsylvanians, supported by a detachment of U.S. Marines and police officers from Philadelphia, to conduct a brutal dragnet operation across the free Black enclaves of Lancaster County for potential suspects.[110] The identities of those seized mattered much less than the color of their skin; but for the difficulty of legally proving acts of

[106] "Message of Governor Johnson in Defense of Pennsylvania," (Philadelphia: Crissy & Markley, Printers, 1850), 9-10.
[107] Ibid., 10.
[108] Ibid., 9.
[109] See: Slaughter, Bloody Dawn.
[110] Ibid., 87.

treason, great numbers of innocent, Black bystanders would have faced prison or execution. In the first days and weeks after work of the "outrage" spread, cross-border tensions seemed certain to start a border war, and perhaps spark a national conflagration. Tellingly, a public gathering in Baltimore "of between 5,000 and 6,000 persons" called for a total boycott of the North, as well as the "withdrawal of all Southerners from educational institutions outside of the region."[111] Johnson's nearest counterpart, Governor Enoch Lowe of Maryland, shared in the panic; he viewed the demonstration in Monument Square as a controlled calm before Marylanders reached for bloodier remedies.[112] Fearing the worst, Lowe wrote to President Filmore, "I do not know of a single incident that has occurred since the passage of the Compromise measures which tends more to weaken the bonds of Union."[113]

And yet the sectional storm abated. For another nine years the Fugitive Slave Act would continue to snatch up and send South men and women like Henry Massey, gaining more and stronger legal protections up to the outbreak of hostilities in 1861. As I have demonstrated in this chapter, the tools necessary to answer the question of why this occurred have not been brought to bear on the subject until now. In the following chapter, we will abandon the orbital, national view and cleave close to the streets of Philadelphia in an effort to understand the causal curvatures of a city at war with itself.

[111] Ibid., 104. Baltimore County Resolution in relation to the Murder of Mr. Gorsuch by a Mob in Pennsylvania, signed by W. H. Freeman, Towson, Sept. 13, 1851; W. H. Freeman, Baltimore, Sept. 14, 1851, to Thomas H. O'Neal, Secretary of State, Maryland State Papers, Executive Papers, 1851 Miscellaneous Papers, folder i, MdHR; announcement and resolutions of Baltimore meeting, reprinted in the Pennsylvanian, Sept. 17, 1851, pp. 1-2; *Planter's Advocate*, Sept. 24, 1851, p. 2.
[112] Ibid.
[113] Ibid.

CHAPTER 2

Geographies of Opposition and Appeasement: Contextualizing Social and Legal Responses to the Fugitive Slave Law in Philadelphia

Although the South did not secede in the wake of Christiana, concerned Pennsylvanians could not help but feel the nation was collectively dipping its toes into a terrible new Rubicon. Time would justify this air of apprehension. But more imminently, for many white Americans, both North and South, the blood already spilled in the Act's opening months had ensured the matter would no longer remain a mere policy disagreement. In the anti-Act camp, sustained outrage at the law's invasive nature underwrote a coalitional demand for ever greater organization, agitation, and speed of action. Even after the initial furor died down, opposition elements across Philadelphia made it their mission to keep the Act always on people's minds.

However, evaluating Philadelphia's role in this effort requires one wrestle with three important causal considerations before making any further analyses. First, as Richard Huzzey has identified, factionalism was inherent amongst people who rejected the chattel principle leading to unpredictable and combustible, but not necessarily irrational, decision-making. Using a "solar" or "atom[ic]" model for illustration, Huzzey equates abolitionist efforts to the loss or gain of "bonds" between actors—as in the orbits of subatomic particles or celestial bodies—rather than the rigid separation of actors into arbitrary ideological camps.[114] Whatever they called themselves, whatever their priorities or prevarications, all enemies of slavery orbited around a shared center of gravity—the conviction that human beings should not be held as property. While previous historians have emphasized the disagreements between the many flavors of anti-

[114] W. Caleb McDaniel, "The Bonds and Boundaries of Antislavery," *The Journal of the Civil War Era*, Vol. 4, No. 1., March 2014, p. 89.

slavery thought, Huzzey redirects us towards a recognition that international abolitionism, like any activist camp, evolved through a dance of rupture and repair. As Huzzey surmises,

> Two abolitionists who disagreed about numerous other issues could collaborate because of a single orbiting idea, even if it was also pulled by another issue or conviction. Meanwhile, even if they identified with different parties or societies, all three could continue to agree on the basic principle that the ownership, sale, and purchase of human beings were wrong and had to be ended. [S]tructures… could always be broken apart and reassembled when new ideas or events appeared.[115]

As such, to gauge any aspect of opposition to the Act *without* considering schism as part of the generative process is to lose its wider implication in the particulars.

Second, as evidence compiled by R. J. M. Blackett illustrates, how a given community reacted to the Act's passage depended on geographic, as well as interpersonal, pressures. Although he does not explicitly make this interpretation, Blackett's compiled map of anti-fugitive slave law meetings after September of 1850 contains key evidence supporting and expanding upon Hummel and Weingast's assertion that proximity to the Mason-Dixon line sharply influenced one's reaction to the law.[116] This map, while not strictly comprehensive, acts as a national survey of organized public outrage at the time. Interestingly, opposition to the Act increasingly centers around urban hubs (Syracuse, Boston, Chicago, etc.) the further north one goes. Meanwhile, with only one curious exception, meetings across the southernmost band of free states (Pennsylvania, Ohio, Indiana) overwhelmingly took place in rural townships and villages. Only Western Pennsylvania dodges this trend, with Pittsburgh recording two Act meetings to Philadelphia's one.

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[115] Ibid.

[116] Blackett, 16-17. This discrepancy exists because Blackett erroneously assumes opposition in an understudied or unstudied region behaved identically to groups in abnormally radical regions, such as Massachusetts or New York.

Indeed, this differential between Eastern and Western Pennsylvania supports and clarifies the third causal consideration: that the personal costs of resistance corresponded to geographic considerations, and in return influenced the frequency, concentration, and racial leadership of organized opposition. Just as Hummel, Weingast, and Lennon have demonstrated that proximity to the Mason-Dixon line directly correlated with the rate of escape, chance of successful escape, and odds of recapture, Blackett's data likewise suggests that for abolitionists of all colors, this proximity informed how comparatively "easy" or "safe" it was to resist the Act. Admittedly, this map cannot show whether opposition efforts in a given location were predominantly Black- or white-led on its own. However, it certainly illustrate the trend towards decentralization—from urban concentration to rural dissipation—the closer one came to the border between free and slave states.

Thomas Slaughter's detailed recreation of Southern Pennsylvania's free Black communities refines our understanding of why this trend exists. As Slaughter relates, while urban centers offered both free and escaped Blacks better economic prospects and short-term anonymity, as the 19th century progressed and Pennsylvania's freed Black population grew, more and more Black Pennsylvanians sought to build or join their own autonomous enclaves.[117] Andrew Diemer notes that long before the Act became law, most freedomseekers who arrived in Philadelphia faced a dual disincentive to staying; first, increased animosity and scrutiny from whites, and second, being regularly shunted into poverty-wage jobs.[118] As a result, much of Pennsylvania's sizeable free and fugitive Black population had already been inclined towards rural community by the time the Act became law. As the story of William Parker's all-Black

[117] Slaughter, *Bloody Dawn*, 3-59.
[118] Andrew Diemer, "Free Black Communities," in *The Encyclopedia of Greater Philadelphia,* https://philadelphiaencyclopedia.org/essays/free-black-communities/, accessed February 28, 2023.

self-defense militia would illustrate, it was obvious to many Black Pennsylvanians that violence would provide the best chance for repelling slavecatchers—and yet vanishingly few whites, especially in urban centers, would ever countenance that idea. As we shall see, Philadelphia, with its white activist caste increasingly led by pacifist Quakers, rejected defensive violence more stridently than most cities. Simultaneously, many white border abolitionists echoed the concerns of the New York abolitionist William Jay—that violent efforts would merely trigger retribution from "Southern ruffians and their Northern mercenaries."[119]

Regardless of how well-founded either fear might have been, this atmosphere of uncertainty produced a degree of paralysis in the Lower North states that did not manifest nearly as strongly in the abolitionist strongholds of New York or Massachusetts, where mass retaliation by Southerners was less a reality and more a romantic abstraction. Buttressed by Slaughter's scholarship, Blackett's map data suggests that the sharp differences between what resistors in the Lower versus Upper North stood to lose helps to explain the aberration that is Pittsburgh and its surroundings. Unlike Philadelphia, which was buffered by three slave states to its east and south, Western Pennsylvania only abuts the western portions of Virginia and Maryland—both of which historically had little investment in slavery. With a comparatively low proportion of free Black enclaves, freedomseekers, and proslavery elements alike, it was demonstrably "easier" for a city like Pittsburgh to make overtures against slavery. The people most susceptible to Southern violence, and those most likely to carry it out, were largely missing from the equation.

While all three of these causal elements are present in the story of Philadelphia and the Act, I suggest that an analysis of the fundamental differences between Black and white resistors

[119] Blackett, 33.

(particularly in terms of legal philosophy, legal standing, and both legal and physical vulnerability) provides the best method by which we can conduct our autopsy of Philadelphia's efforts. Through these three investigative metrics, we can now reconstruct more fully the sometimes-clashing, sometimes-complimentary institutional cultures in which Philadelphian abolitionists operated. As such, this chapter will rely heavily on the institutional history (and internal trends) found in the records of the Pennsylvania Abolition Society, and, tangentially, its splinter faction—the Pennsylvania Anti-Slavery Society.

To begin this analysis, we must acknowledge that white Philadelphians processed the legal implications of the Act not just through cultural layers (personal, regional, and racial contexts), but also as part of a national debate on the proper function of law in the republic more broadly. Although Philadelphia's activist caste formulated their arguments against the Act towards a variety of ends, they did not unilaterally create the vocabulary or rhetoric they used. Rather, they set chosen elements from the wider, national conversation into Pennsylvania's historical and political context, as Chapter 1 explored. Likewise, as the Act's *opponents*, rather than its *authors*, concerned Philadelphians found themselves perpetually reacting to the moves made by proslavery politicians, newspaper editors, and posse members. With that in mind, before returning to Philadelphia, we will first reconstruct and analyze the national debates that flared up around five of the most controversial and impactful elements of the Act's legal structure—elements which show up regularly in the internal records of the Abolition Society. These include its posture towards Black legal standing in general, the right to judgement by a jury of one's peers, competing definitions of "summary judgement," testimonial and evidentiary standards, and *habeas corpus*.

Ultimately, how both pro- and anti-Act advocates maneuvered through these critical legal debates fell along two theoretical axes. Firstly, the juridical revolution inaugurated by the Act's passage was only the second faced by the young republic since it first replaced the "King's Peace" with a founding rationale better suited to an emerging democracy. By radically redefining the federal government's enforcement powers, the Act vaulted Americans further along a juridical trend-line; away from devolving powers to the state and towards federal centralization.[120] Just as communitarian local law gave way to an individual rights-based framework that radiated outwards from state capitols, the Act of 1850 supercharged the reach and relevancy of the Preemption Doctrine that the *Prigg* decision had started, and the Reconstruction Amendments would embolden.[121] Secondly, as we shall see, irreconcilable differences existed between how Southern and Northern legal traditions both defined and weighed each of the five elements listed above. The law as conceived by one legal culture simply could not be transposed onto a foreign system without losing its cloak of neutrality—and infuriating whole constituencies.

[120] Laura Edwards, *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South* (Chapel Hill, NC: University of North Carolina Press, 2009), p. 3-53.

[121] Ibid. It is important to note that the constitutionality of the preemption doctrine proffered by the majority opinion in the *Prigg* case rested on shaky constitutional ground. Indeed, many commentators at the time and scholars since have concluded that the assertion of a blanket federal responsibility to "deliver up" fugitives as described by Article 4, Section 2 of the United States Constitution may not have been an appropriate assertion. The actions ultimately taken by the U.S. Congress on this issue, in the form of the Fugitive Slave Act of 1850, rested on Article 1, Section 8's statement that Congress retained the power to enact "necessary and proper" laws to carry out its enumerated responsibilities. Whether this included slave recaption at all, and if so, whether the issue should have devolved to the states on a case-by-case basis, as a strict constructionist reading would suggest, was and remains a point of contention. Regardless, the actions of proslavery legislators, judges, and commentators gradually strengthened and popularized the preemption argument throughout the 1850's. For more on the complexity behind the Prigg ruling, see Chapters 2, 9, and 10 of H. Robert Baker's *Prigg v. Pennsylvania: Slavery, the Supreme Court, and the Ambivalent Constitution*.

As the brainchild of U.S. Senator James Mason of Virginia, it might not come as a surprise that the Act was not only intended as a "draconian" measure, but also predicated upon a convenient political fallacy—that the South would never have consented to the Union in the first place if not for the inclusion of a fugitive slave clause in the Constitution.[122] Indeed, much of the final spirit of the Act, to say nothing of its letter, derived from Mason's hard-won reputation as a political attack dog for proslavery interests. In January of 1850, citing a bevy of madly fluctuating figures for the annual rate and cost of slave escapes, Mason requested the Virginia legislature investigate the issue.[123] That body provided him with a set of rhetorical bludgeons he would wield in the U.S. Senate, ranging from the aforementioned "fundamental article," to slave flight as a hidden "heavy tax" upon Upper South slaveholders, to general treason claims and appeals to law and order.[124] Claiming the Fugitive Slave Act of 1793 had been neutered by free state personal liberty laws, he set about crafting a series of legal instruments that, through a brutal application of Federal power, would right the wrongs done to the slave power bloc.

The end results were unprecedented in many respects, though I will demonstrate that they represented a federalizing *evolution* of Southern legal theory, rather than a radical *break* from it. It is important to note that, from the Southern perspective, slavery's political vulnerability automatically justified even the Act's worst elements. Though the term would not be coined for three years, the Act was meant to function as a kind of legal Realpolitik. So long as its

[122] Blackett, 9; Blackett, 6. See Campbell, pages 3-25 for further information on the introduction, revision, and passage of the Act of 1850.
[123] Ibid., 6.
[124] Ibid., 6-7.

enforcement buttressed the political loyalty of Upper South slave states and protected the status quo, charges of hypocrisy or impropriety would matter little to either its authors or its beneficiaries. Unfortunately for both, the Act's callous architecture went too far for even moderately conservative and generally ambivalent camps. The Act certainly posed a mortal threat to freedomseekers and free Blacks throughout the North, and a moral travesty to concerned whites, but for some it superseded the issue of slavery or slave status entirely. For this latter group, the Act stood apart, to quote Blackett, as simply a "bad law."[125]

Mason had seemingly gone out of his way to make the law as belligerently unfair as possible. The Act broke some of the most sacred—and basic—standards of judicial fairness which, some thirty years after the advent of statute law, had become standard across swathes of the U.S.[126] It denied the defendant's right to testify on their own behalf, while simultaneously prohibiting jury trials.[127] Even worse for the law's optics, it openly incentivized Commissioners to return all expected fugitives South, offering a $10 payout for guilty verdicts, and only $5 for letting a suspect go.[128] Then, the Act further enabled Commissioners to abuse their position by giving them total discretion to interpret the meaning of "summary judgement," which, paired with their presumed ability to overrule writs of *habeas corpus* issued by state or local judges, ensured they could keep a suspect close and move them out of state quickly, all without oversight.[129]

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[125] Blackett, 80.
[126] Laura Edwards, *The People and Their Peace.*
[127] The Yale Law School Lillian Goldman Law Library, "Fugitive Slave Act of 1850," in *The Avalon Project: Documents in Law, History, and Diplomacy*, electronic database, https://avalon.law.yale.edu/19th_century/fugitive.asp. See Sections 1, 2, and 6.
[128] Ibid. See Section 8.
[129] Ibid. See Section 6.

However, the Act transformed legal norms as surely as it violated them. To administer its provisions, the Act instituted a national, unelected, unaccountable infrastructure of court-appointed Commissioners, Marshalls, and other agents of the court.[130] It mandated severe penalties for anyone who interfered with recapture efforts, not only violating the antebellum norm of state self-determination, but also compelling average citizens to become slavecatchers against their will.[131] This, in turn, empowered Commissioners to summon armed possies at will to oversee the transport of the condemned.[132] Perhaps most revolutionarily, the Act created the original legal basis for the notion that the federal government has an obligation to not just provide opportunities for redress of grievance to its citizens, but to proactively protect their rights. As Eric Foner notes, in perhaps one of the greatest ironic twists in American legal history the Reconstruction-era Ku Klux Klan Acts would cite the Fugitive Slave Act of 1850 as precedent for deploying federal troops and agents to preserve African Americans' constitutional rights.[133]

Even beyond its provisions, the Act's bullying nature inflamed political discourse throughout the United States to a degree that might appear disproportional at first glance. However, as Laura Edwards acknowledges, the antebellum period's imprecise sense of the nature of citizenship ensured that "White men [would be] constituted as freemen through their rights *over* those without rights."[134] In such a Machiavellian climate, the very thought that one could be distanced from the center of power was tantamount to an assault on one's rights and status—if not immediately, then inevitably. Thus, even if one did not care about slavery or those

[130] Ibid. See Section 5.
[131] Ibid. See Section 7.
[132] Ibid. See Section 9.
[133] Eric Foner, *The Second Founding: How the Civil War and Reconstruction Remade the Constitution*, (W. W. Norton, 2019). See pages 9, 11, and 53.
[134] Laura Edwards, *The People and their Peace*, 9.

who suffered under it, the thought of a conspicuously biased law taking effect on the federal level threatened the faith and security of all but the slaveholding class that had authored the change. Whether a white individual truly feared prosecution or not, the Act represented a danger for future statute law, removing the oversight process from comparably accessible statehouses and towards the distant halls of Congress.

When seen as a cousin to the first major turn undertaken by American law—from local to state statute—it becomes clear that the Act severely damaged the legitimacy of statute law itself, having emphasized the arbitrary nature of legal norms in the most egregious way, and at the worst possible time. When the original shift towards statute law came about, it did so successfully. A competent, intentional campaign by upper-class reformers birthed that revolution, taking it upon themselves to, as Edwards puts it, "not only separate[e] the 'state' from the 'local,' but also insis[t] on the superiority of the former to the latter."[135] This caste of lawyers and legislators succeeded so thoroughly in "perpetuating these presumptions," that even today we assume an individualist, rights-based, hierarchical legal structure is not just normative, but the *only* possibility.[136] In truth, as with the Act itself decades later, the outcome resulted not from some rational sorting-out of intrinsic legal properties, but from intentional action. Nor did the shift towards state statute result from any victory of progress over provincialism. Taking the coastal Carolinas as an example, Edwards notes that "the region's elite was thoroughly

[135] Ibid., 13. As Edwards explains it, the architects of rationalized state statute law pushed for the change out of a variety of overlapping self-interests. Primarily, as an outgrowth of property law, generalized state statute law applied the same kind of legal code to a far wider array of everyday interests. This suddenly provided landholding elites a leg up not just in property disputes, but any array of questions. It also shifted the evidentiary logic of trials away from public consensus in the service of "the peace," but rather towards a prescriptive theory of law, where judges were not meant to arbitrate for the mutual benefit of all, but instead in service to the letter of the law. Thus, whoever understood the rules of law better could—i.e., lawyers and those who could afford to hire them—for the first time had an unassailable advantage.
[136] Ibid.

embedded in the networks of the Atlantic world and wedded to its political and intellectual currents," even as they operated for decades under a localist framework.[137]

While local law had a number of component parts, most relevant was its ecumenical approach to legal authority. While the educated dominated statute law, "ordinary people, even those without rights, influenced localized law in a basic, structural sense. Indeed, these people, and the body of knowledge upon which they drew, *constituted* local law."[138] Further, local law saw "no need to identify a single location of legal authority… or texts… because the logic of local law sanctioned the coexistence of multiple sources of authority."[139] Where state statute law, "reinforced, rather than challenged, the subordination of all those who were not rights-bearing individuals and… [even] some who were," local law, though itself a slippery mire of perspective, reputation, and bias, did not fully exclude any parties from the legal process.[140]

Rather, local law was defined by a decentralized, street-level access that would only continue to disappear as the 19th century progressed. The system itself emphasized "process over principle," answering to the needs of the public peace even as it produced, from a statutory perspective, "inconsistent rulings." As we shall see in Chapter 3, this flexibility of thought created openings for clever litigants—even Southerners of color—to turn the law towards their service. Although local law sought to keep all members of a community "in their appropriate places, as defined in specific local contexts," the simple fact that the law was guided not by the outputs of legal formulas, but rather appeals to fairness, reputation, etc. This gave the law a human face that one could appeal to—or perhaps even manipulate towards an advantage.

[137] Ibid., 15.
[138] Ibid., 12.
[139] Ibid.
[140] Ibid., 11.

Perhaps for these reasons, local law "continued to have considerable influence in the antebellum period and afterward, because it was embedded in the culture in ways that made it hard to eliminate."[141] After all, even at the dawn of the 1850's the rights-based model was not only relatively new, but also underscored with persistent, structural inequalities that did not go unnoticed. As Edwards summarizes, while "by the 1830's freemen could look to the state to protect their rights, defined in the limited, abstract terms of law at that level of the system… many of the white men included in this category could not count on those rights as a means to articulate, let alone promote, their interests."[142]

A Law out of Place: Legal Definitions, Sectional Differences, and the Incompatibility of Northern and Southern Law

Less than twenty years on from this sorting-out period, with many elements of the old, localist paradigm still embedded in public perceptions of the law's nature and purpose, Senator Mason's bill shook the hive yet again. By passing a law that would use an extraordinary federal preemption power to enforce its mandate, Mason unintentionally reminded Northerners of all persuasions that slaveholder power and federal power were becoming increasingly intertwined, and that just as legal authority had once been dragged out of the village square and into the courtroom, that authority might once again be hauled off to an even more distant venue. This fundamental concern only grew in urgency when enforcement began, and suddenly the battle shifted from attacking the legitimacy of federal intervention (a battle which the Act's opponents had already lost by *de facto*), to the minutia of legal definitions. As we shall see, these

[141] Ibid., 10
[142] Ibid., 10.

differences would become the bane of the Pennsylvania Abolition Society's legal wing. Just as the Society's Acting Committee lost all momentum in trying to repeal a federal law in a bitterly divided Congress, their legal wing would fail, time and again, to strike down each provision on its merits before Commissioner Ingraham.

Still, in a broader sense the regional contest over certain definitional and procedural differences would plunge lawyers across the free states into the same debates largely irrespective of time or place. As such, before we treat the Pennsylvania Abolition Society as a case study in how Philadelphia's lawyers challenged the Act in practice, it behooves us to consider what national conversations would have accompanied these men into the courtroom. In particular, it pays dividends to consider such debates in the context of disparate Northern and Southern legal traditions, each heavily shaded by its regional relationship to slavery. Fortunately, a healthy literature exists on the topic, with Thomas D. Morris providing perhaps the best one-volume comparison of the forking road that confronted American legal theory from the dawn of the 19th century onwards.[143] As Morris concludes, the sectional fractures exacerbated by the Act could only occur, or be understood,

> …in a nation where two conflicting systems of law existed side by side in different sections of the country. In one, slavery was an established institution; in the other it either had or was being abolished. To abolish slavery… meant altering the structure of the law, eliminating principles of law that were based on the idea that men could be treated as property, and [instead] extending to all men the legal rights applicable to free men.[144]

The single most fundamental division between Northern and Southern antebellum law concerned the question of Black legal standing. Northern states, with the exception of Illinois,

[143] Thomas D. Morris, *Free Men All: The Personal Liberty Laws of the North, 1780-1861* (Baltimore, MD: The Johns Hopkins University Press, 1974).
[144] Ibid., 1.

did not associate race with a presumption of slave status.[145] Although the bounds of citizenship for freed people of color were murky and frequently curtailed by racist impulses, for generations Northern judges and voters had erred towards a presumption of free status unless proven otherwise.[146] However, since only the most radical of Northern states (most notably Massachusetts) openly disavowed the chattel principle itself, in practice this presumption manifested as an insistence on "fair" procedures to determine whether one was "legally" owned or not. As we shall see, the legal records of the Pennsylvania Abolition Society corroborate this trend; Philadelphia's abolitionist lawyers couched their strategies within the rhetoric of procedural fairness rather than any universal claim to emancipation or the ownership of one's own body.

Conversely, Southern legal tradition embraced the linkage of skin color and slave status wholeheartedly. Southern law shunted all people of color into a distinct legal category that denied them "what Sir William Blackstone called… 'the absolute rights of individual,'" which, in a rights-based legal system, made them virtual non-entities.[147] Regardless of status, southerners of color would always find their rights "subordinated" to those who owned them, or to the interests of their social "betters" more broadly.[148] As a result, every element of the legal landscape that Black southerners navigated operated from an opposing, and entirely incompatible, basis to that of the North. Citing the "'probability'" that a Black person in a slave state would most likely be enslaved gave rhetorical cover to the real utility behind presuming slave status: "A presumption of freedom could undermine the 'rights' of a master against his

[145] Ibid., p. xi.
[146] For an excellent treatment of how race impacted both citizenship and the right to movement in the antebellum North, see Elizabeth S. Pryor's *Colored Travelers: Mobility and the Fight for Citizenship Before the Civil War* (Chapel Hill, NC: University of North Carolina Press, 2016).
[147] Morris, *Free Men All*, 1.
[148] Ibid.

property and might endanger the system of 'racial adjustment' [as a whole]." Indeed, southern procedural norms reinforced this precedent that Black parties should absorb any collateral damage incurred during the legal process wherever possible. Southern statutes frequently employed "evidentiary rule[s]" that further stacked the deck, preventing people of color from testifying against white parties and forcing them to shoulder the burden of proof when confronted by white litigants.[149] Thus, when the Act became law, it transposed these conspicuously freighted presumptions onto a Northern populace that did not recognize them as legitimate legal standards.

However, complex rationales for legal standing or for the presumption of innocence versus guilt likely struck the average white Northerner as abstract when compared to one of the Act's more concrete divergences—the denial of a jury trial. Indeed, as Morris puts it, "trial by jury, the writ of *habeas corpus*, and the less familiar writ *de homine replegiando*" were the tripartite legal bones of the abolitionist assault on the Fugitive Slave Act.[150] In the case of Philadelphia, another two factors—divergent standards on what constituted summary judgement, and different evidentiary and testimonial standards—would further shape the legal context in which concerned parties combatted the Act. Still, no single point of procedural disagreement held abolitionist attentions quite like the denial of trial by jury. For example, between 1826 and 1847 the Pennsylvania Abolition Society's Acting Committee successfully appealed to the state

[149] Ibid., 2.
[150] Ibid., 8. *Habeus corpus* (translated literally as "show me the body"), is a legal recourse designed to challenge illegal or indefinite imprisonment by requesting a judge bring the prisoner before a court to formally determine whether such imprisonment is lawful in their case. *De homine replegiando* is an older but functionally similar writ, meaning "personal replevin." Where *habeas corpus* exclusively concerns itself with the production of an individual, *de homine replegiando* represents a modification of the typical meaning of "replevin"—the return of seized goods to their owner pending the outcome of a formal trial.

legislature that any reformed fugitive slave statutes include substantive anti-kidnapping measures, including the right to jury trial.[151]

Although the Act of 1850 would nullify this decades-long effort, years of Abolitionist agitation had not been entirely wasted. Although the Pennsylvania Abolitionist Society found their memorials to the U.S. Congress had little impact compared to the clout they enjoyed in Harrisburg, the jury trial as a symbol of basic fairness and due process would endure throughout the pre-war years. Morris ties its enduring relevancy to its almost mythical status as a product of Magna Carta. As both a "political principle" and "legal device," the jury trial represented "a mechanism for taking the community sense of justice in a given case [and wielding it] against abuses of power.[152] Jury trial had been deployed both during the Stamp Act crisis of 1765 and later against the "antirepublican common law of seditious libel."[153] That kind of pedigree made it especially difficult for Southern lawmakers and Commissioners to convince Northerners that a racial exception could be permitted without diminishing the right itself. In fact, Senator Mason's refusal to compromise on this point drew the ire of both abolitionists and his own political allies. Joseph Underwood of Kentucky proposed an amendment to the Act that would have "provided a way out of a sticky political impasse" by mandating jury trials be held *in the South*, after a Commissioner had already returned a suspected fugitive.[154] As Underwood rightly asserted, such a conciliatory measure would have virtually no effect on the rate of recaption—a jury of southern slaveholders would brook no sympathy for a freedomseeker. It would, however, "mollif[y] Northern opinion without conceding the constitutional need for a speedy return of captives."[155]

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[151] Pennsylvania Abolition Society, *Meeting Minutes, 1825-1847*, Collection 0490, Historical Society of Pennsylvania, AmS012. Accessed October 10th through 20th, 2022.
[152] Morris, *Free Men All*, 8.
[153] Ibid.
[154] Ibid., 10-11.
[155] Ibid., 11.

Although Underwood's advice went unheeded at the time, the decade of abolitionist outrage that followed would vindicate his concerns.

Although they enjoyed less uniform clout across northern legal systems than jury trial did, writs of *habeas corpus* and *de homine replegiando* quickly became favorite tools for the Act's opponents to gum up the works wherever possible. As was commonly the case with legal stratagems, abolitionist lawyers weaponized these writs *reactively* rather than *proactively*. In some respect, the gradual rise in both the rate of issuance and creativity of these writs across the 1850's represented an equal-and-opposite reaction to the efforts by slaveholding legislators to bastardize the common law right of recaption.[156] As expressed by Blackstone's *Commentaries*, English common law had long recognized a man's right to recover "property in goods or chattels personal" without formally appealing to a law enforcement body.[157] In Blackstone's characterization, concern for the public peace limited the right—"If therefore he can so contrive it as to gain possession of his property again, without force or terror, the law favours and will justify his proceeding."[158] When conceiving the Act of 1850, Mason and his enablers threw these constraints to the wind. A limited, regulated, and publicly accountable right suddenly became both absolute and federally enforceable.

Compared to these excesses, the abolitionist embrace of writs of *de homine replegiando* and *habeas corpus* seem positively tame, despite the efforts of the Act's proponents to paint them as a form of legal hooliganism. Similarly to the jury trial process, these writs traced their origins to Magna Carta and the prevention of state tyranny.[159] The first, older writ offered friends

[156] Ibid., 3.
[157] Ibid., 3-4.
[158] Ibid.
[159] Ibid., 9.

of freedomseekers an opportunity to remove them from court custody on bail, which could create opportunities for escape or evasion. By contrast the second writ, when used creatively, could remove accused fugitives to more advantageous venues. For example, having an ally petition a state judge for a writ of *habeas corpus* regarding a bogus charge of theft would empower a friendly party to remove the accused from a Commissioner's court, buying time for associates to develop a legal defense or plan an escape. However, as Morris notes, the Northern conception of these writs rested on an assumption of strict state sovereignty, which the Act's federalizing language soon rendered obsolete. Citing Rollin Hurd's 1858 treatise on the topic, the thought that a federal judge could overrule a writ issued by a state judge was a threatening one, irrespective of one's stance on slavery: *habeas corpus* had been,

> …raised to the importance and clothed with the power of a political principle, so that while and because it is an invaluable and comparable protection for personal liberty, it is also in turn protected by the highest power in the State, constitutional and legislative, as a cherished popular right and safeguard of civil liberty.[160]

Thus, the Fugitive Slave Act of 1850 effectively turned the enforcement of *habeas corpus* into an uneven battle of wills, with state and local authorities trying (often in vain) to surmount the Act's federal enforcement powers. Again, regional pressures greatly shaped the outcome of any given case—Blackett records numerous instances across Pennsylvania, for instance, where state writs of *habeas corpus* found greater or lesser degrees of traction.[161] However, Pennsylvania's continued recognition of the chattel principle—and thus the slaveholder's right of recaption—ensured that moderates across the state would have grounds to dilute any local- or state-level efforts to nullify federal writs. Massachusetts, by comparison, had done away

[160] Ibid, 9.
[161] Blackett, *The Captive's Quest for Freedom*, 269-357.

reception in 1789, steadily expanding its anti-kidnapping protections in the years that followed.[162] This factor plays a role in explaining why Massachusetts not only developed a more radical antislavery bent than Pennsylvania, but also wielded that radicalism far more effectively.

Finally, a veritable minefield of evidentiary and testimonial contests awaited any lawyer attempting to build a defense for an accused fugitive. Of all of the Act's component parts in this regard, the emphasis on summary judgement placed the greatest pressure on allied legal teams. As the description of the Adam Gibson case (1850) in the next section will demonstrate, the point at which a Commissioner exceeded his authority—or indeed *whether* he could exceed his authority—to deliver a speedy judgement clouded Philadelphia's proceedings. Unfortunately for the freedomseekers who faced Commissioner Ingraham, ultimate procedural authority rested squarely at his feet, per both the Act of 1850 and the older Judiciary Act of 1789. As Morris notes, the Act of 1850 permitted a judge in a free state to "if he chose, bring the fugitive act into harmony with the Judiciary Act by allowing the testimony of a Negro who claimed he was free."[163] Indeed, newspaper coverage of Henry Massey's trial indicates that, by 1854, Ingraham had begun to budge on this point in the interest of self-preservation.[164] Still, in practice this judicial privilege was nothing if not capricious—and narrow. The wording of the Fugitive Slave Act of 1850 proffered that "it was the testimony of the claimant alone" that could be permitted, and only if it "satisfied" the judge. As a result, the interplay of these two laws even further complicated the question of whom could testify on whose behalf—and all while the Commissioner pressured the defense from his high seat.[165]

[162] Morris, *Free Men All*, 1.
[163] Ibid., 21-22.
[164] See pages 103-113 of this thesis for a full rendering of this topic.
[165] Ibid., 22

A Resistance out of Time: Pennsylvania's Abolition Society as a Case Study in the Failures of Philadelphia's Activist Caste

Into this maelstrom of bad laws and bad faith strode the members of the Pennsylvania Abolition Society. To invoke Huzzey once again, one cannot understand the people that would ultimately come to Adam Gibson and Henry Massey's aid without acknowledging that a genuine sincerity of feeling existed within their organizations. Mistakes and strokes of genus alike emerged from a shared cauldron of fear, urgency, optimism, schism, ego, religious fervor, outrage, and fatigue. Indeed, for both organizations the 1840's and 1850's would prove a time of generative chaos—marked by schism, insolvency, and arson, but also successful escapes, legislative wins, and degrees of legal success. The Abolition Society, and its splinter groups and satellites (most notably the Pennsylvania Anti-Slavery Society), endeavored within the ideological and emotional bounds of their own institutional cultures to provide for those targeted by the Act. However, key ideological, institutional, and material differences would ensure the Abolition Society—with its comparatively conservative, pacifist approach—would remain Philadelphia's dominant activist influence.

As the internal records of the Abolition Society reveal, its leaders had not originally anticipated that providing legal representation would become their principal focus by 1850. Although it had provided such services since the late 18th century, the Abolition Society's leadership hoped that the legal assault unleashed on Philadelphia's Black community by the Act would dissipate, as previous legal and legislative firestorms had.[166] After all, before *Prigg v.*

[166] For a full rendering of the Society's legal efforts from the 18th century onwards, consult the following collections: Pennsylvania Abolition Society, *Meeting Minutes, 1825-1847*, Collection 0490, Historical Society of Pennsylvania, AmS012. Accessed October 10th through 20th, 2022.; Pennsylvania Abolition Society, *Meeting Minutes, 1847-1916*,

Pennsylvania set the nation's final fugitive slave law crisis into motion, the Society had regularly spent 75% of its annual income on its network of colored schools.[167] Instead, a series of crises that mirrored the national slide into secession tested the organization's resilience. Pride in their pedigree and the mores of their majority-Quaker leadership prevented them from taking radical action, whether that meant violence or civil disobedience. Like their famous counterparts in New York or Massachusetts, the Abolition Society *was* the Philadelphia establishment, and this gave them resources—their minute books speak to their wealth in stock, real estate, legacy endowments, reputation, exposure, and a large, contributing member base.[168] However, unlike their counterparts who ultimately succeeded in hobbling the Act's enforcement in other states, the Pennsylvania Abolition Society weighed every potential action against the risk posed to its respectability. As a result, their abhorrence of violence as a vector for mutual moral corruption gradually created a conundrum that many activist organizations before and since have faced—under what circumstances should the survival of the organization, or its identity, preempt the execution of its mission?

Emerging out of the Abolition Society during a period of acute frustration over fiduciary mismanagement, perceived proslavery appeasement, and an unwillingness to draw blood even in self-defense, in 1838 the Pennsylvania Anti-Slavery Society fashioned itself into a comparatively inclusive, daring, even insurgent society—a bold response to rising legal and physical

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Collection 0490, Historical Society of Pennsylvania, AmS012. Accessed October 22th through 25th, 2022.; Pennsylvania Abolition Society, *Legal Records Series IV: Manumissions and Indentures*, Collection 0490, Historical Society of Pennsylvania, Box 4A. Accessed October 25th through October 26th, 2022.; Pennsylvania Abolition Society, *Legal Records Series IV: Manumissions and Indentures*, Collection 0490, Historical Society of Pennsylvania, Box 4B. Accessed October 25th through October 26th, 2022.

[167] Pennsylvania Abolition Society, *Meeting Minutes, 1847-1916*, 25.

[168] Regular reports of held assets are included throughout both sets of minute books.

aggression.[169] Formed by James Mott (the head of the Abolition Society's committee "for Improving the Condition of the Colored Race"), his wife Lucretia, an outspoken suffragette and abolitionist, and prominent Black Philadelphians Robert Purvis and John C. Bowers, the organization quickly distinguished itself from the Abolition Society, displaying a marked diversity of race, gender, and thought.[170] While the Abolition Society stuck to its tripartite approach of education, legislation, and legal representation, its counterpart adopted an attitude more akin to abolitionist outfits further north. While the Anti-Slavery Society published and fundraised in public, their Vigilance Committee, led by William Still, secretly ran perhaps the best-documented artery of the Underground Railroad.[171]

Although not a focus of this monograph, the Anti-Slavery Society, by dint of its methods and membership, underscores the practical limitations imposed by Henry Massey's main allies. As part of a growing consensus amongst American abolitionists that the incrementalist approach could no longer work, the Anti-Slavery Society's mere existence as a competitor highlights the ways in which the Abolition Society, as the Old Guard of the Philadelphia activist caste, proved simply incapable of meeting the needs of her fugitives. With a truncated sense of the possible where law, violence, and spirituality were concerned, from the 1830's onwards, the Abolition Society found itself out of step with evolving realities on the ground. As a result, when radical

[169] Carol Faulkner, *Lucretia Mott's Heresy: Abolition and Women's Rights in Nineteenth-Century America* (Philadelphia: University of Pennsylvania Press, 2013), 41-87.
[170] While the Abolition Society did eventually admit a small number of Black men into its ranks, it never included any female members. Female Philadelphians—including Lucretia Mott—were shunted into a separate "Female Abolition Society," which was itself racially integrated.
[171] William Still, *The Underground Rail Road: A record of facts, authentic narratives, letters, &c., narrating the hardships, hairbreadth escapes and death struggles of the slaves in their efforts for freedom* (Philadelphia: Porter & Coates, 1872), eBook accessed via Project Gutenberg, April 9, 2021. Pages not numbered in this electronic edition.; In addition to Still's publication, the Historical Society of Pennsylvania also holds three volumes of records for the Pennsylvania Anti-Slavery Society between 1838 and 1849, as well as the Philadelphia Vigilance Committee's Case Records and Minutes for 1839 to 1844. These primary sources were consulted but not directly cited by the author.

proslavery efforts metastasized in the Fugitive Slave Act of 1850, Philadelphia's activists were still gravely divided on just what to do. The fallout from the Abolition Society's darkest years not only drove some of its best to either resign or pull double duty with its more successor organization.[172] As I will demonstrate, institutional shocks throughout the Abolition Society's preceding thirty years inadvertently set their clients up for failure in the courtrooms of the 1850's.

An analysis of the Society's minutes from 1825 to 1855 reveal patterns in institutional decision-making that allow us to measure, to a degree, where the organization's leaders chose to spend their time, focus, and financial resources. Although the Society's papers do not always speak overtly to why a given decision was made, and sometimes intentionally censor names, places, or other details, tracing how the institution's internal dialogue evolved over time—particularly in the context of relevant external events—provides an interpretive opening on a hitherto obscured subject. Further filtered through the above-mentioned legal debates and calculations between violence and restraint, the events chronicled by the Society's minute books and other records reconstruct the social, legal, and institutional realities that shaped the fates of Adam Gibson, Henry Massey, and the attorneys who represented them.

Through the day-by-day drumbeat contained in their pages, the Society's minute books draw our attention, inexorably, towards one of the most fundamental questions about interracial abolitionism in the early 19th century: in order to realize their "vision of belonging," would Black activists have to resign themselves to a belonging built on imbalances of power?[173] Would

[172] In addition to James Mott, Passmore Williamson headed the Abolition Society's Acting Committee for most of the 1840's and 50's while also serving as part of Philadelphia's Antislavery Society.
[173] Stephen Kantrowitz, *More Than Freedom: Fighting for Black Citizenship in a White Republic, 1829—1889*, (New York: Penguin Press, 2012), 1.

interactions between the Abolition Society and Black Philadelphia take on the affect of two fires fighting each other for dwindling shares of oxygen? Would the Society leverage their advantages in the logistics of time, money, manpower, and meeting space against those they saw as something between allies and wards? Or would, as Philadelphia's Black Founding Father Richard Allen once believed, Black patience, forbearance, and suffering eventually birth a "moral republic," one nurtured by the Black perspective of liberation theology and its "secular corollary"—the "covenant" between races and classes symbolized by the Declaration of Independence?[174] Although Chapter 3 weighs these factors more comprehensively, the path towards understanding begins in the Society's minute books.

Ironically, even the Abolition Society's name evinced their incrementalist nature. Founded in April of 1775 as the "Society for the Relief of Free Negroes Unlawfully Held in Bondage," it was only during a reorganization from 1784-1789, overseen by its new president, Benjamin Franklin, that it expressly added "Promoting the Abolition of Slavery" to both its title and mandate.[175] Despite Franklin's national lobbying efforts, including advocating for general abolition at both the Constitutional Convention and before the First Congress, the institution entered the 19th century more a bastion of respectability politics than vanguard, emancipatory action.[176] Indeed, "action" was less appropriate a byword for the organization than the more abstract notions of "enlightenment" or "uplift." Where action implied the full weight of human agency, the Society's internal dialogue, as seen through its minute books, suggests that a certain naiveté, formulaicity—even meekness—had crept into their proceedings by 1825. While the

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[174] Richard S. Newman, *Freedom's Prophet: Bishop Richard Allen, the AME Church, and the Black Founding Fathers*, (New York: New York University Press, 2008), 23.
[175] Historical Society of Pennsylvania, "Abolition, Anti-Slavery, and the Underground Railroad," online publication, undated.
[176] *"Benjamin Franklin Petitions Congress,"* National Archives and Records Administration; Franklin, Benjamin *"Petition from the Pennsylvania Society for the Abolition of Slavery,"* February 3, 1790.

Abolition Society of 1825-1835 certainly took radical social stances on more than one occasion, these arguably resulted from its members' desire to satisfy certain ideological functions rather than simply solve problems. In such cases, the frisson of fulfilling a moral imperative often distracted from more practical considerations—i.e., how a desired outcome was supposed to be reached.

Indicatively, in June of 1825 while preparing remarks for an approaching antislavery convention, the Society's leadership adopted a scattershot approach to their agenda. While they addressed common elements for an abolitionist treatise—the abolition of slavery in South America, the continued scourge of kidnapping in the United States—they also touched on minor, fanciful, and politically uncomfortable topics. Arguing that "It has been a frequent taunt in the mouths of slaveholders, that the avarice of their opponents prevails over their scruples… partaking of the profits of slavery," the missive spurred its audience to double-check that they had entirely divested themselves of tainted goods—although economically this would have a miniscule impact at best.[177] Condemning the domestic slave trade, they reasoned that God would "visit [a] national crime with a national punishment," and on the divisive subject of recolonization, they "refrained from using any influence to promote [such] views."[178] Indeed, the Society would continue to demur on the subject of the American Colonization Society's efforts until September of 1827.[179] Even so, two years later, the Society continued to use kid gloves as they petitioned the American Abolition Society to abandon the idea as well.[180] Only in January of 1832, at a subsequent convention, would those gloves finally come off: "The descendants of

[177] Pennsylvania Abolition Society, *Meeting Minutes 1825-1847*, 17. For more on the Society's perspective on the progress of South American Abolition, see pages 15-16, and 135-137 of same.
[178] Ibid.
[179] Ibid., 62.
[180] Ibid., 98-106.

the African race in this country, have the same right to remain upon the soil of their birth, as their brethren of European descent."[181]

This early iteration of the Pennsylvania Abolition Society did not always demur around divisive topics, however. Among its more radical propositions, its leaders called for equal pay irrespective of race, a position they extrapolated from their great faith in the transformative power of education. Displaying utter conviction on both counts, the Society joyfully anticipated the day when "mankind will be compelled to acknowledge that the great **I AM** hath truly 'of one blood made all the nations of the earth.'"[182] Indeed, a rapturous belief in education as the supreme weapon in the fight against slavery was perhaps the single greatest hallmark of the Society's operations prior to 1837. Their address to the 1825 American Convention for the Abolition of Slavery contained a virtual abolitionists' Nicene Creed to just that effect:

> Impressed with the strongest belief that slavery in the United States is upheld principally by ignorance and prejudice, we do not hesitate to believe that were our deluded fellow Citizens fully to examine the subject, as well in relation to its immoral effects on Society as in relation to its tendency to reduce the value of land, repress improvements and discourage the industrious poor; and above all were they sensible of the awful responsibility of entailing on innocent children the slavery of their mothers, they would rejoice in restoring them to their natural rights.[183]

However, the Society's sense of what constituted "education" leaned towards the broadest possible definition. For example, like many abolitionist organizations funds were allocated to promote (and occasionally prop up) abolitionist newspapers. When Benjamin Lundy, the long-suffering editor of the *Genius of Universal Emancipation*, relocated his operations to

[181] Ibid., 156-157
[182] Ibid., 22-23.
[183] Ibid., 15-16.

Baltimore he approached the Society for financial support.[184] Lundy's paper would be the first to receive the Society's assistance, but not the last. For example, in 1827, the Society sponsored and promoted two Black newspapers, Philadelphia's *African Observer*, and New York City's *Freedom's Journal*, and would continue to seek out new publications to foster until the Great Panic of 1837 struck.[185] The Society also engaged in what might be called "moral uplift" efforts, providing basic welfare to segments of Philadelphia's Black community according to its own priorities and norms—often striking a patronizing tone in the process. An underground Black orphanage in Philadelphia proper, dubbed "The Shelter" by "its philanthropic female supporters," reached the Society's notice when a surge in new arrivals outpaced its meagre funding, thus "contract[ing] the sphere of its usefulness."[186] Although it is unclear whether The Shelter received direct Society funding, similar outfits aimed at curbing prostitution, addiction, etc. amongst Philadelphia's Black populace frequently did.[187]

Indeed, the Society's fixation on social hygiene occupied much of its attention through the 1830's. In 1827 the Society conducted its first citywide census of Philadelphia's colored community as the first installment in a decades-long PR campaign aimed at statistically demonstrating that the Society's "improvement" efforts were working.[188] Later, in 1832, the Society dispersed a thousand pamphlets on the subject of general "cleanliness" through the Black community.[189] The Society's actions and rhetoric suggest they saw cleanliness of the body and of the mind as natural corollaries, and thus subject to a shared moral urgency. To that end, the

[184] Ibid., 20-21.
[185] Ibid., 66.
[186] Ibid., 64. These female supporters were likely aligned with the Philadelphia Female Anti-Slavery Society, which provided an organizational base for many members of the activist caste who were barred from participating in the Pennsylvania Abolition Society by their sex.
[187] Ibid., 64-357.
[188] Ibid., 73-82.
[189] Ibid., 176.

Society built a library between January of 1832 and December of 1833, steadily filling it with reference materials on moral hygiene, slave law, theology, and any other topics considered essential for the uplift of their wards.[190] As with newspapers, here, too, the Society stressed the need for reproducibility in their methods. As an 1833 communique to the short-lived New Haven Anti-Slavery Society lamented, at this point in the institution's history external proslavery aggression was not seen as the primary threat. Whether in terms of societies, publications, or colored schools, disengagement and internal decay posed the greater danger to progress:

> In the year 1794 several societies were organized and numbered among their members many of the most distinguished Philanthropists of our Country. Since that time we have seen one after another discontinue its labors until we were left almost alone.[191]

Nowhere is this struggle against entropy better apparent than in the Education Committee's evolving relationship to its colored schools. Although archival limitations essentially place us in the middle of an ongoing story, the first statistics provided on the Society's educational program, for December of 1825, offer a valuable base for comparison. Having already disbanded their boys' school for unknown reasons, the Board of Education reports that their girls' school had "admitted 71 and discharged 54, total 125" in the last year, with an average daily attendance of about 50 students.[192] Although their school programs would expand and contract, emerge and disappear over the next thirty years, the Society would maintain an average of approximately 50 students per teacher except in the wake of financial crisis.[193]

[190] Ibid., 198-200.
[191] Ibid.
[192] Ibid., 22.
[193] Ibid.

However, funding did not necessarily equate to an intimate, personal investment in the success of Philadelphia's young Black scholars. As a troubled report from December of 1829 records, in many respects the Society's education initiative actually exacerbated, or at least underscored, a fundamental disconnect that existed between Philadelphia's white activist establishment and an emergent Black community consciousness. The Education Committee authorized teachers to "discharge" any students who were absent longer than two weeks without a "reasonable excuse."[194] While they tangentially acknowledged that a chronically underpaid population in a still-hostile city might face financial obstacles to receiving education ("many indeed are at service or detained at home to assist their parents…"), the Committee members surrendered the initiative.[195] Rather than attempt to identify and ameliorate the obstacles facing their Black students, they doubled down on a punitive approach—"it is apparent that the colored population do not sufficiently prize the advantages that are offered to them."[196] Although the 1835 Convention for Free Colored People would formally thank the Society for its educational efforts, the institution—as distinguished from more radical and integrated organizations like the Anti-Slavery Society—never lost its deeply patronizing edge.[197] Certain members would challenge this lack of humility and unwillingness to listen to or compromise with Philadelphia's Black populace, but as Chapter 3 will demonstrate, regrettably little had changed by the time that Adam Gibson and Henry Massey took the stand.

[194] Ibid., 108.
[195] Ibid.
[196] Ibid.
[197] Ibid., 37. While a fuller investigation of the Society's relationship to this or other colored conventions is beyond the scope of this investigation, a valuable introduction to the historiography of antebellum colored conventions can be found in *The Colored Conventions Movement: Black Organizing in the Nineteenth Century,* a collection of essays on the subject published in 2021 and edited by P. Gabrielle Foreman, Jim Casey, and Sarah Lynn Patterson.

The Society's early efforts at defending kidnapped freedpeople arguably accomplished more than their educational efforts simply because speaking for and acting on persecuted peoples' behalf did not require the same contentious process of relationship-building that education did. While a Black student, pastor, or community activist might coordinate with Society members on a daily basis for years, naturally demanding a level of give-and-take, kidnap victims had little if any leverage over their white allies. Thus, even before the Fugitive Slave Act of 1850 made freedomseekers *literally* dependent on white proxies to access the legal system, the Society's own institutional culture inadvertently fostered a similarly subordinate relationship.

While not comprehensive, the earliest records of the Society's legal aid efforts reiterate time and again that these were tightly controlled, white-led efforts that, under duress, would always place the Society's reputation over the wellbeing of Black defendants—or even errant white members. The 1825 case of William Nicollet, a young man who had been manumitted in Philadelphia before a woman in Norfolk, Virginia forcibly removed and re-enslaved him, bears the typical hallmarks of the Society's approach.[198] Having established a committee under Edward Needles (future president of the Society, and perhaps its strongest liaison to Philadelphia's Black community), the taskforce was ordered to gather evidence towards establishing his identity and claim to freedom—nothing more.[199] In the event that legal efforts failed to secure Nicollet's freedom, Society agents were to take no further action, and if necessary dissuade any illegal or violent efforts made by the local Black community to intervene on Nicollet's behalf.

[198] Ibid., 11.
[199] Ibid.

In January of 1827, the Society made an example of Samuel Mason for breaching just such a protocol. Sometime prior, an unnamed freedomseeker asked Mason to write a letter on his behalf to his master, Solomon Low, asking he respect the terms of their manumission agreement.[200] When this "negotiation" failed, the man fled to Mason's shop, pursued by his master and with "a crowd on his heels."[201] Mason conducted the man through his shop and out the back door, where he apparently escaped further detection. Stinging from failure, Low sued Mason under the Fugitive Slave Law of 1793 for "aiding" his slave, claiming $500 in damages. Mason won the suit after "three distinct Jury Trials," but incurred hundreds of dollars of legal fees in the process.[202] One might expect the Society would applaud Mason's good heart and quick thinking. Instead, this was their official response:

> The limited resources of the Society, and the desire of guarding against the opinion, that it will be in any way accountable for the acts of its members, however innocent or meritorious they may be, unless performed in the discharge of their official duties in the Society, have induced the [Committee] to recommend that only One Hundred Dollars should be appropriated…. And to prevent embarrassment to the Society, that this should not be paid immediately….[203]

Men and women like Nicollet and Mason—those who absorbed the collateral damage that resulted from the Society's rules of legal engagement—appear and fade from the minutes so frequently that finding an actual acknowledgement of failure is a rarity. Take, for example, the portions of the Society's legal files that still survive in the custody of the Historical Society of Pennsylvania (HSP).[204] Regrettably little exists for the years between 1835 and 1860, and that

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[200] Ibid. 55.
[201] Ibid., 55-56.
[202] Ibid., 56.
[203] Ibid.
[204] Pennsylvania Abolition Society, *Legal Records Series IV: Manumissions and Indentures*, Collection 0490, Historical Society of Pennsylvania, Box 4A. Accessed October 25th through October 26th, 2022.; Pennsylvania Abolition Society, *Legal Records Series IV: Manumissions and Indentures*, Collection 0490, Historical Society of Pennsylvania, Box 4B. Accessed October 25th through October 26th, 2022.

which does is often fragmented. Worse, the mystery surrounding these case files is compounded by a lack of provenance before 1916, when HSP started to accession the materials. As such, archival gaps could be the result of happenstance *or* intentional action. However, considering the conscientiousness found throughout the Society's meeting books—the amount of redaction, forbearance, and sideways politicking—it is not far-fetched to suspect that a similar intentional selectivity might have been applied to their case files. Regardless, whether it is metaphorical or factually true, it is telling that what little survives mainly chronicles the legal wing's early successes, and not the hammer blows of failure it suffered under the Act.[205]

Nonetheless, the Society's successes do command our attention. Actions taken by its counsellors before 1837, however circumscribed, did produce a net-positive effect for both the Black individuals they rescued and the white Philadelphians who they converted to the cause of abolition. Indeed, perhaps the great tragedy of the relationship between the Society and Black Philadelphia is that for decades prior to the Act's passage, the Society worked efficaciously to fulfill the "high hopes" of Black activists, followed by "dashing disappointments" that perhaps could not be avoided, and which derailed their joint project of racial uplift.[206] As early as 1825, members were involved in prosecuting kidnappers directly, for example spending personal funds to execute an arrest warrant for "Arnold Jacobs, charged with kidnapping Emery Sadler."[207] And their efforts were by no means limited to Philadelphia—in July of 1827, the Society formally thanked "John H. Hamilton and John Henderson of Rock Spring, Mississippi, and… Joseph Watson, Mayor of the City of Philadelphia" for their effective recovery of "five colored boys"

[205] Ibid.
[206] Richard S. Newman, *Freedom's Prophet*, 5.
[207] Pennsylvania Abolition Society, *Meeting Minutes, 1825-1847*, 20.

who had been kidnapped from Elkton, Maryland.[208] This same episode conveyed a rare—and portentous—expression of clarity borne from sincerely-felt frustrations:

> The relief of these unhappy victims is attenuated with peculiar difficulties. The Cold… forums of the Law impede the reclamations… the mere proof of identity cannot always be effected according to the practice of the Courts….[209]

Though undercut by the interleaved fears of reputation and legal liability, the Society's counsellors during this era did their work in earnest, and on the eve of 1837 appeared poised to expand their efforts. In March of 1836, they formally restarted a committee dedicated to assisting accused fugitives, and that July they commissioned a separate secretarial role entirely devoted to recording manumission documents, collecting witness testimony, and generally managing the materials needed for a legal defense.[210]

Just as their counsellors were providing legal aid across the country, the Society's Acting Committee made great strides in the legislative realm. On February 10, 1826, as word of the dubiously named "Act to give effect to the Constitution of the United States, Relative to Fugitives from labour, for the Protection of free persons of Colour, and to Prevent Kidnapping" reached the Society, the Committee leapt into action.[211] In a memorial delivered to the Pennsylvania Legislature, their delegates eerily foreshadowed, as if by bullet points, every major debate around the Fugitive Slave Laws that would engulf the city and the nation in a quarter-century's time. The bill as written, they argued, "might make benevolent individuals the companions of convicts… [turned into] ignominious tenants of prisons."[212] They questioned the

[208] Ibid., 42-44; see page 65 for similar successful efforts at recovering kidnap victims from the Deep South.
[209] Ibid., 42.
[210] Ibid., 256; 259.
[211] Ibid., 28.
[212] Ibid., 30.

necessity of the bill, suggesting that the Act of 1793 rendered the matter a federal concern, and outright asked—as if anticipating the accusations leveled at Governor Johnson some twenty-four years later—"Have the provisions of the Constitution of the United States been violated by the people pf this commonwealth?"[213] But perhaps most significantly, the memorial's authors understood that an expansion of fugitive slave laws would represent that the Commonwealth had abandoned its abolitionist legacy, and instead combined its laws "with the states that uphold a different system."[214] In stark contrast to later times, the Abolition Society won that day—their lobbying rendered the final package "a manifest improvement upon the previously existing laws."[215] Parallel efforts produced similar results. Over the next ten years they would prevent the repeal of the Act of 1826, avert a ban on Black immigration into the state, and coordinate with Philadelphia's Black community to identify and destroy future laws "unfavorable to them," including repeat efforts to circumscribe the right to trial by jury.[216]

Unfortunately for both the Society and those who found themselves dependent upon its aid, 1837 nearly destroyed the institution, and irrevocably altered its character. As Jessica Lepler describes, in the Spring of 1837 a snowballing loss of faith in the international system of credit resulted in the first modern depression—one which would cripple the value of most stocks and scrip currencies until the mid-1840's.[217] Exacerbated by a sluggish international communication network, fear and uncertainty consistently outpaced fact, often with unpredictable consequences. The Pennsylvania Abolition Society, like countless companies, organizations, and individuals, faced this catastrophe with near-empty coffers. Since 1825, the treasury had regularly reported

[213] Ibid.
[214] Ibid., 31.
[215] Ibid., 36.
[216] Ibid., 158-161; Ibid., 273-276; Ibid., 296.
[217] Jessica M. Lepler, *The Many Panics of 1837: People, Politics, and the Creation of a Transatlantic Financial Crisis* (Cambridge, United Kingdom: Cambridge University Press, 2014).

somewhere between three hundred to five hundred dollars (equivalent to $9000 to $15,000 in 2023) in liquid assets at any given time.[218] They entered January of 1838 with nineteen dollars (less than $500) on hand.[219]

As early as July of 1837 the Society started tightening its belt, including in ways that would inadvertently cause collateral damage for their legal defense efforts in the 1850's. The already-extant gap between the Society and Philadelphia's Black community only widened once the Committee for Visiting the Colored People reported that the economic downturn (and presumably a resultant uptick in calls for assistance) made their mandate, "although very important and highly interesting to the friends of the people of color, appear to be too intensive and laborious… to be accomplished."[220] Crucially, had the Committee been dissolved, then the Society would have lost its only point of contact with Philadelphia's Black community until Robert Purvis's admission in 1842.[221] Even so, the Committee was directed to make themselves solvent through direct fundraising.[222]

However, the blows continued to fall. The Society soon found its financial troubles compounded by an arson attack against their latest and most expensive expansion project, a stately multipurpose building named Pennsylvania Hall.[223] Even before its grand opening on May 14th, 1838, numerous public threats had been made that if the building were used towards abolitionist ends, it would be razed to the ground. Three days later, on the 17th of May, a mob did

[218] Pennsylvania Abolition Society, *Meeting Minutes, 1825-1847*, -38; additional statistics were recorded at annual intervals throughout the Society's minutes books.
[219] Ibid., 326.
[220] Ibid., 300.
[221] Richard S. Newman, "Abolitionism," *The Encyclopedia of Greater Philadelphia*, https://philadelphiaencyclopedia.org/essays/abolitionism/. Accessed remotely January 3, 2023.
[222] Pennsylvania Abolition Society, *Meeting Minutes, 1825-1847*, 301-304.
[223] Samuel Webb, *History of Pennsylvania Hall, which was Destroyed by a Mob, on the 17th of May, 1838* (Philadelphia, Pennsylvania: Merrihew and Gunn, 1838).

just that. Although a technically bloodless incident, the threat of violence would hang in the air for years to come. Occurring mere months after Reverend Elijah P. Lovejoy's murder in Illinois, and being followed by a similar attack on Mother Bethel A.M.E. Church, the very heart of Philadelphia's Black community, just days later, the Pennsylvania Hall fire was only the first of many reminders that, as proslavery forces radicalized, the practical costs of preaching abolition would continue to rise.[224]

Beyond the mounting threat of proslavery violence, ostracization followed the arson attack. Nearly five years after the incident, the Society still could not find any unaffiliated landlords willing to rent space to them for conferences, schools, prayer meetings, or any other purpose. The risk of reprisal was too high. Perhaps most ironically, even the Franklin Institute refused them out of fear that their repository might be next.[225] Worse, this problem measurably curtailed the Society's efforts—the Committee for Public Meetings abolished itself in March of 1844 because they simply could not find a public venue willing to treat with them.[226]

In a double first, the Society not only pressured and purged delinquent members from its rolls in an attempt to pull quarters out of couch-cushions, but their treasurer authorized mass evictions from the remaining rental properties, which disproportionately affected their colored schools.[227] In October of 1838, having already shifted to a charge-based model for the first time, when forced to choose between discontinuing the boys' or girls' school, the Education Committee stated, "no detriment would arise to the coloured community from [the girls'

[224] Eli K. Price, *The History of the Consolidation of the City of Philadelphia* (Philadelphia: J.B. Lippencott & Co., 1873), 112.
[225] Pennsylvania Abolition Society, *Meeting Minutes, 1825-1847*, 475.
[226] Ibid., 479.
[227] Ibid., 479-480; Ibid., 272.

school's] discontinuance."[228] By December of 1840, the Education Committee had reopened some number of the sacrificed school programs, but in many respects it had ceded ground that it would never reclaim. Where once the Society dominated Black education in Philadelphia, the severity of their collapse had led the Black community to source its educational needs from elsewhere. Some two years into the Society's education revitalization process, the charge per pupil rose from a flat $3 annual rate to a sliding scale of $5, $8, $10, or $15 depending on a variety of factors.[229] A doubling-down on patrician punishment made for an even worse incentive; in March of 1840, having reduced enrollment to a maximum of 30 from a previous high in the hundreds, the board "deemed it necessary to expel 3 of them and publicly reprimand several others."[230] Where each of their schools previously reported an average of 50 students in attendance, in the wake of 1837 and the Penn Hall Burning, they now averaged 16.[231] From this point on, the Education Committee would no longer be the dominant faction within the Society that it had once been, whether in terms of influence or finance. Indeed, by December of 1842, the Board of Education formally requested to abolish itself, "as there was so little now to claim [their] attention."[232]

Although the Society had largely dug itself out of its fiduciary hole by December of 1842, with some $302.52 on hand, it had required drama, infighting, *and* the aforementioned sacrifices to get there.[233] At their first meeting after Pennsylvania Hall's burning, the then-treasurer Daniel Neall alerted the Society's leadership that, while it might be possible to bring a suit against the city and county governments for their gross failure to defend the hall from the

[228] Ibid., 339.
[229] Ibid., 408-409.
[230] Ibid.
[231] Ibid.
[232] Ibid., 446.
[233] Ibid.

mob, they had more pressing problems. Under pressure to buy back stock from the building's investors, the $250 they had managed to gather from amongst each other only amounted to about one quarter of the total cost.[234] Although the record does not specify why he agreed to do so, Neall fronted the remaining $750 (about $18,000 in 2023) himself.[235] Nearly a year later, and evidently after a shouting match or two, the Society authorized a loan from a third party to pay Neall off.[236] In the interim, Neall lost his reelection bid as treasurer, and apparently did not take the snub well at all. In the weeks before his replacement, Peter Wright, assumed the office Neall seemingly retaliated by refusing to process any disbursements or reimbursements so long as he still held the chair.[237]

Time would eventually heal the tension between the two treasurers (Neall would go on to serve as secretary for the Society and a Committee member for decades to come), but the institutional culture of the Society would never recover from the dual wounds of financial overextension and slaveholder violence. Indeed, having chronicled the upheaval that racked the Abolition Society at this time, it is not at all surprising that the American Anti-Slavery Society formed in 1838, or that it counted many of the Abolition Society's most notable members amongst its ranks. Financial mismanagement and physical attack are enough to spark a crisis of confidence within any organization, but due to their pedigree and visibility, the Abolition Society also suffered a number of public insults around this time, coming from foes and friends alike. Again, their typical forbearance makes it difficult to put names to statements, but, as any

[234] Ibid., 355.
[235] Ibid.
[236] Ibid., 354.
[237] Ibid. 349.

contemporary scholar of internet trolling would find all too familiar, the Society's responded in a highly emotional manner—sometimes even verging on the obsessive.

First came an "opinion… extensively propagated… from men high in reputation and in office, that this Society has no actual sympathies for the slave…."[238] While this would undoubtedly be an interesting redaction to unravel given the time, the salient point here is that the Society undoubtedly faced more practical challenges in April of 1839 than insults from anonymous allies—and yet they dedicated a multi-page rebuttal to it. From the opposite end of the political spectrum, word reached the Society that General Edmund Pendleton Gaines (the society actually misspells his surname as James), a regular army officer stationed in Tennessee, had accused American abolitionists of being "organized bands of British Spies… secretly employed in preparing and hastening a tragedy of blood and desolation."[239] The minutes give no indication as to why *this* particular insinuation merited multiple-page rebuttals, special meetings, and a committee assignment. Certainly being accused of treason by a standing officer of the United States Army was neither normal at the time nor pleasant, but the underlying dog whistle (that abolitionists were pathfinders for servile insurrection) was nothing new. However, the very human reactions evinced by the Society in their darkest years speaks volumes to both the growing hostility (rhetorical and physical) of the time, and the unsteadiness of an organization which had survived a close brush with death.

Next, as if trying to rediscover how to live and work as an activist outfit, the Society hosted multiple internal audits in the following years. While this concretized their shift away from a gradualist, education-based mode of emancipation to an effort built around a reputation

[238] Ibid., 357-360.
[239] Ibid., 411-412. See The Encyclopedia of Alabama for more on General Gaines.

for legal and legislative successes, these "resuscitation" efforts also placed control of the organization squarely in the hands of financially conservative, politically moderate religious pacifists—in other words, a leadership body that would, in the event of a future crisis, make the institution's survival its first priority. Nonetheless, the early 1840's also stoked the Society's reformer streak within certain bounds. At a January meeting in 1842 the "Resuscitation" Committee went to work. To start, it commissioned a report "on the present condition of the Society with regard to its Labours, Expenditures, and Pecuniary Resources."[240] The findings were damning; even some five years into depression and recession, a "considerable portion" of the Society's assets remained in stocks, which the report acknowledged "although for a time [were] profitable, are no longer so."[241] Although divestment had begun in earnest, the treasurer stated in no uncertain terms that the Society had survived through a combination of luck and callous action:

> …were it not for the ground rents accruing from Clarkson and Sanford Halls (which, not being occupied by schools under care of the [Society] are let [for profit] for other schools, lecture rooms, etc.) would be totally inadequate to the annual expenses of the Acting Committee, amounting during the past year to upwards of $368 incurred in attending to more than 40 [legal] cases…[242]

However, this same report also demonstrates how thoroughly the institution's business model had already changed. By amputating their decades-old ideological and fiduciary devotion to education, social hygiene, promotion, and proselytization, the Society had enabled measurable success in the legal and legislative realms. In addition to those forty legal cases, the Acting Committee alone acquired twelve sets of freedom papers, and collected testimony for an

[240] Ibid., 431.
[241] Ibid., 432-433.
[242] Ibid., 433.

ultimately successful effort to recover kidnap victims from New Orleans and Florida.[243] Yet, the threat of overreach still loomed; "…demands upon our Acting Committee are constantly increasing," and without "considerable addition from… members" work would cease.[244] The Society's future would depend on a delicate balance between preservation *and* expansion. Shaking off doubts and reestablishing their preeminence amongst the many abolitionist camps in Philadelphia would require not just accounting and innovation, but a rediscovery of their core identity. Perhaps with this in mind, the Society commissioned its first ever institutional history in January of 1843.[245] Before they could find the confidence to best a growing roster of enemies, they first had to believe that they had, through great difficulty, at last discovered themselves.

Before the Fugitive Slave Act of 1850 came into force, the Society enjoyed nearly a decade of institutional health, and numerous legal and legislative success. Yet, hesitation and internal struggles to shift their methodological red lines still dot the records of that period. In September of 1839, after much debate the Society dispatched a committee of five members to assist a similar New York contingent in fundraising for and providing legal aid to a force of "Native Africans," accused of "Piracy and Murder."[246] Overall, the Society's response to the infamous Amistad Rebellion case came with commendable speed. But the interplay of changing laws, hardening politics, and rising rates of violence over the following eight years clearly dampened this enthusiasm. Perhaps no event demonstrates this shift as clearly as the Society's fractured response to the 1847 Carlisle Courthouse Riot. While this incident has been documented in detail elsewhere, it assumed a great significance for the Society because the case

[243] Ibid.
[244] Ibid., 434.
[245] Ibid., 460.
[246] Ibid.

represented the first enforcement test of Pennsylvania's recently expanded Liberty Laws—laws which the Society had lobbied extensively to pass.[247]

Despite this, a special meeting called on August 20th of 1847 deemed it "inexpedient" to take any action beyond asking to Acting Committee to "enquire whether the judges and magistrates [involved in prosecuting the fugitive in question] have acted in any way illegally."[248] That a number of Black bystanders attempted to free the captured freedomseekers by force undoubtedly violated the Society's pacifist strictures; but could forbearance still be the morally correct choice if it led to a ruling that nullified Pennsylvania's most effective liberty law yet? Apparently, their answer was a resounding "yes." Then, on September 30th elements of the city's Black community staged an emergency meeting of their own to address the Carlisle situation—during the Abolition Society's regular meeting time and in their regular meeting place.[249] Although the minutes do not convey the full story, the Society took the hint. Cowed, they cancelled their own meeting for the day, and shortly thereafter formally reconsidered their response on Carlisle.[250] Having consulted with their counsellors, the Society ultimately opted to abandon any effort to get the case itself—and thus the fate of the fugitives sentenced in its course—appealed to the State Supreme Court. While it would be "extremely difficult and impracticable to obtain a decision… on the constitutionality of the late Act [of 1847]," they would contest the sentences of the numerous prisoners now held "in solitary confinement… at the Eastern State Penitentiary" for their rescue attempt.[251]

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[247] Pennsylvania Abolition Society, *Meeting Minutes, 1847-1916*, 12.; See Martha C. Slotten, "The McClintock Slave Riot of 1847," *Cumberland County History*, Summer 2000, Vol. 17, No. 1, pp. 14-35. For the 1847-1916 meeting book, it must be noted that page numbers are not always present, and that certain portions written in pencil are incredibly difficult to read.
[248] Ibid.
[249] Ibid., 13; Ibid., 15-18.
[250] Ibid.
[251] Ibid., 18.

While this course of action made sense in terms of feasibility, it is still suggestive that even the Society's legal wing had settled comfortably into a pattern of appease-where-possible. After all, the Society did not seriously consider practicability when, during Pennsylvania's Constitutional Convention of 1837-1838, they demanded the state extend universal male suffrage to both white *and* Black free Pennsylvanians.[252] While that attempt failed, following the U.S. Supreme Court's 1842 decision in *Prigg v. Pennsylvania*, the Society seized on the recognition of slave recaption as a purely federal responsibility to request the State and U.S. Legislatures exempt Pennsylvania and Philadelphia alike from "any participation in slavery."[253] This ill-defined thrust of the pen slowly refined itself into a statewide nullification campaign, formally legislating that no Pennsylvanian—whether civilian or law enforcement—could be compelled to assist in slave recapture.[254] Having found traction amongst certain influential figures in both Harrisburg and Washington (including Senator Charles Sumner of Massachusetts), their lobbying found some success. Little moved on the federal level, but their friends in the state legislature succeeded in getting the Pennsylvania Act of 1847 passed, an expansion of the 1826 law that the Society had also contributed to.[255] Now, the Society had played a public role in ensuring neither Pennsylvania's officers nor jails would be used to hold fugitive slaves.[256]

These legislative and legal successes help corroborate the argument that the Act of 1850 emerged, at least partially, in response to the growing reach and refinement of abolition organizations nationwide—Philadelphia's included. However, the records that survive regarding the Society's actions throughout 1850 tell of disbelief, a loss of control (over both radical

[252] Pennsylvania Abolition Society, *Meeting Minutes, 1825-1847*, 298-299.
[253] Ibid., 449-457.
[254] Ibid., 530.
[255] Pennsylvania Abolition Society, *Meeting Minutes, 1847-1916*, 2-3; Ibid., 5-9.
[256] Ibid.

members and the city's wider Black community), and—yet again—hesitancy. To begin with, the Society's response came slowly. Their first serious consideration of the Act of 1850 occurred on September 26th, during a stated (regularly recurring) meeting, although the Act had beem passed over a week before.[257] While this first meeting limited itself to fact-finding, a follow-up special meeting held on October 7th was called in "consideration of our Coloured Population," but rather than invite direct communication, the Society opted to simply prepare an address.[258] Although they approved the address a week later, it took them until December 26th to actually distribute the document.[259] It must be noted that the final product, "Ten Years Progress, or a Comparative Statement on the Condition of the Coloured People in the City and County of Philadelphia from 1837-1847," was quite literally a recycled project.[260] This sixteen page pamphlet was produced to calm the *Society's* members, not the Black community that now faced a spiking risk of legal abduction. Through it, the Society publicly congratulated themselves on their legislative and legal work over the past decade (now largely obsolete), all while failing to provide any coherent legal or practical advice to besieged Black Philadelphians.

Regardless, the Society's leadership assured its members that the pamphlets were a triumph. Making a rare circuit of appearances at Black churches across the city, the members reported they were "eagerly sought after and appeared to give great satisfaction, affording the committee convenient opportunity to extend much advice and encouragement to the lay audiences assembled… which was well received."[261] Just as the pamphlet was not really

[257] Ibid., 53.
[258] Ibid., 55.
[259] Ibid., 56-58.
[260] Edward Needles, *Ten Years Progress, or a Comparative Statement on the Condition of the Coloured People in the City and County of Philadelphia from 1837-1847*, 1849.
[261] Pennsylvania Abolition Society, *Meeting Minutes, 1847-1916*, 57-58.

intended for a Black audience, the visits were not intended to soothe Black fears. The official line stated,

> …the coloured people, so long the special objects of our care became greatly excited, and a number of lay meetings held by them, at which we were pained to hear that many highly inflammatory speeches were made, and also much threatening language, as an indication of their determination to use violence, even to the shedding of blood, in case of any attempt of a slaveholder to arrest any colored person as a slave.[262]

Deeply alarmed, On December 20th, the Society published 2000 copies of another, more targeted publication, "to inculcate the mentality that it is for their own sake… the welfare of their Friends, and the cause of their enslaved Brethren to guard against any manifestation of violence or an appearance of Riotous Intentions."[263]

These missteps were not the only indicators that the Society—whose counsellors would represent Adam Gibson before Commissioner Ingraham's court the very next day—was constitutionally incapable of surmounting the challenges that lay ahead.

With the institutional evolution of the Pennsylvania Abolition Society parsed, we can finally deconstruct the relationships between counsellor and defendant using the contextual information they would have carried into the courtroom. As such, in autopsying the trials of Adam Gibson and Henry Massey, I intend in the final chapter to answer a question that bears relevance to modern efforts at interracial activist collaboration. Specifically, why did a competing Black legal effort did not materialize in time, or in sufficient strength, to overtake and replace the Society's blinkered legal approach with a generative one that acknowledged the unavoidable conclusion that the law was neither neutral, nor capable of dealing justice to men

[262] Ibid.
[263] Ibid.

like Massey? In other words, why did Henry Massey lose his case when, for decades, the creativity of Black litigants and defendants across the nation had developed, preserved, and transmitted methods for making even the most prejudiced laws serve them?

CHAPTER 3

The Elusive Legal Landscape of Black Philadelphia: Free Men, Fugitive Slaves, and the Limits of Abolitionist Cooperation in the Contested North

As the previous two chapters have demonstrated, the compounding effects of religious orthodoxy, near-bankruptcy, mob violence, internal division, and institutional soul-searching had ensured by December of 1850 that the Pennsylvania Abolition Society would obey the rhetorical guard rails Governor Johnson articulated in his rebuttals to Virginia and Georgia. By renouncing violence and civil disobedience while leaving the chattel principle—however hated—intact, the Society had ideologically hardened into an instrument that could not provide the kind of protection, relief, or legal victory that freedomseekers found in other states. And yet, the Society remained the first, largest, and most visible source of aid for those who found themselves dragged before Commissioner Ingraham. As the next section will demonstrate, while Philadelphia's Black community attempted to replicate internal aid networks which had served Black defendants well in other parts of the nation, recent developments had shrunken the bounds of what they could logistically and legally provide. Within the legal sphere, the language of the Act itself reinforced the Society's penchant for gatekeeping Black access to the law; now it was statue, and not just institutional preference that Black defendants only speak through white proxies. At the same time, the sheer dislocation of being a fugitive—especially when hounded by a notoriously gung-ho Commissioner—made it almost logistically impossible to defend oneself. After all, the average person brought before a fugitive slave court had fought more than just informants, slave catchers, and agents of the court before their arrest. As strangers in a strange land, distance, time, and the risks inherent in extending trust reduced the chance of evasion and legal success alike.

With ample context now provided, this chapter will demonstrate through the trials of Adam Gibson and Henry Massey that the Fugitive Slave Act did not only permanently alter the

personal experiences and legal journeys faced by the men and women forced to establish their identity and defend their freedom. By the end of the decade, with its worst excesses normalized by subsequent federal precedents in *Dred Scott v. Sanford* (1857) and *Ableman v. Booth* (1859), the Act had concluded James Mason's radical juridical project. In the eyes of federal law, the "person" had been removed from the "property"; a most uncomfortable ambiguity eliminated at long last. Where once the circumstances of Black legal personhood had been open to negotiation, even in the deep South, the very idea was now precluded by federal statue and Supreme Court review.

Whose "Higher Law?": How the Fallout from the Act's Enforcement Destroyed Philadelphia's Rival Black Legal Geography

The fallout from the Act's passage took two equally catastrophic forms in Philadelphia, each falling along racial lines and further testing the public's strained faith in the impartiality of law and the indissolubility of the union. First, the Act's passage destroyed a rival body of Black legal knowledge across the county, a geography made of people, places, and ideas that had painstakingly carved out space for African Americans to win suits before hostile statutes, jurors, and judges for more than half a century. Amongst those few Black Americans, such as Robert Purvis, who still thought emancipation could be achieved without bloodshed, the Act forced a reckoning. The total exclusion and subjugation of Black persons before the law—irrespective of status or state of residence—made such hopes untenable. The full consequence of this shift is most visible when contrasted with the Black legal cultures that matured in several areas of the United States during the first half of the 19th century.

In terms of the South, Kimberly Welch's scholarship has recovered a wealth of examples where Black litigants and defendants in Louisiana and Mississippi not only brought suits or stood

before hostile courts, but also won more often than one might expect. As she acknowledges, southern law's fundamental hostility to Black legal personhood remained virtually unchallenged, even in atypical Louisiana; "Surviving as a free person of color in a world in which blackness equaled slavery was no easy feat."[264] Still, stories like that of Valerian Joseph's were not impossible. Five days after being beaten and nearly kidnapped by two white assailants, a jury of white slaveholders awarded Joseph $500 of the $1500 he sought in damages.[265] Cleverly, Joseph avoided the wider questions of where the limits of Black legal standing or citizenship began or ended. Rather, "he framed his case a debt action, using the language of property and obligation" forcing the court into a dilemma by claiming that an "illegal assault on his property: his body," had occurred.[266] The court could choose to dismiss his case because of his race, but to do so would weaken protections for chattel property—including their own. The court not only sided with Joseph—they authorized the sheriff to seize and sell the attackers' property to facilitate his payment.[267]

Obviously such concern for the due process of a colored man would be unthinkable under the terms of the Act, but it is important to understand just *why* freedomseekers like Henry Massey would have polarly opposite experiences with the same southern (albeit imported) legal system. Welch corroborates elements of Laura Edwards's research into the practical-pluralist nature of local law in order to explain Joseph's verdict. Even in September 1857, post-*Dred Scott*, the traditional plasticity of the "relationship between black people, claims-making, racial exclusion, and the legal system" could serve the interests of Black claimants—but only so long

[264] Kimberly Welch, *Black Litigants in the Antebellum South* (Chapel Hill, NC: University of North Carolina Press, 2018), 3.
[265] Ibid., 3-4.
[266] Ibid., 4-5.
[267] Ibid., 5.

as the court in question allowed them to develop and present their *own* legal arguments.[268] In her analysis Welch takes care to avoid reducing the Black legal experience to a binary of "white regulation and black criminality," partly because the truth on the ground varied so long as "governance… involved the participation of all community members."[269] Unfortunately, that reduction is exactly what the Fugitive Slave Act succeeded in doing, and with greater enforcement powers than any previous bill in American history. Before the Act's passage, even in fugitive slave cases and freedom suits, Black parties regularly "claimed the courtroom as 'an arena of possibility.'"[270] After its passage, wherever Commissioners, state governments, and everyday citizens acceded to the Act's preemption, the ingredients of "legal personhood" were excluded from the courtroom entirely.[271]

As Welch admits, the definition of "legal personhood" was intrinsically slippery; "Legal personhood and what we might term social personhood merged at a certain horizon and became indistinguishable."[272] In other words, what a Black defendant could accomplish before a hostile court correlated to their ability to boost the perceived value of their social personhood. That entire process, however, depended on the defendant's ability to testify on their own behalf, to call and admit witness testimony as to their own identity and reputation. It necessitated statutes and procedures that were not finely tuned to consider the subject of property only in terms that benefited slaveholders. As the Adam Gibson case underlines particularly well, the Ingraham court made such measures both impossible and irrelevant. Likewise, where antebellum southern courts "were not [entirely] instruments of white hegemony," the courts established under the Act

[268] Ibid., 4-6.
[269] Ibid., 9-10; Ibid., 8.
[270] Ibid., 9-10.
[271] Ibid., 11.
[272] Ibid.

surely were.[273] Although Philadelphian abolitionists, including the Abolition Society, tried to inject "the messiness and the contradictions of local communities and lived experience" back into the Ingraham court through their newspapers, public appearances, and demands for northern procedural norms to be respected, the Act, and even more so its Commissioner, simply did not care.[274] Clothed in immense power, Ingraham could disregard his detractors indefinitely.

This attitude of total disregard also marked a dangerous departure from the kind of courtroom culture that Black claimants had encountered in the South for years. Even the most hateful Mississippi judge understood that "To achieve any coherence—and to make this racialized economy palatable to nonslaveholders—the law had to protect property generally."[275] What was true of property law was true of the law writ broadly—the legitimacy of law could not endure if two opposing systems refused to coordinate and cooperate in resolving disputes. Senator Mason demolished this norm the moment he proposed the Fugitive Slave Act of 1850.

Anne Twitty's study of the western Confluence Region (the intersection of the Ohio, Mississippi, and Missouri rivers) demonstrates that many of those same raw ingredients of Black legal success found in Louisiana also occurred along the western border states.[276] Her research concluded that, "Despite distinctions of status and race, those who lived in the American Confluence… shared a common legal culture," which emerged as a largely coherent whole from the relatively neutral ground and long germination period afforded to the Confluence.[277] While this is in already a stark contrast to the shock, outrage, and border violence that Pennsylvania

[273] Ibid., 13.
[274] Ibid.
[275] Ibid., 14.
[276] Anne Twitty, *Before Dred Scott: Slavery and Legal Culture in the American Confluence, 1787-1857* (Cambridge, UK: Cambridge University Press, 2016), 2.
[277] Ibid., 3-4.

experienced from the Act's passage, the real distinction lies in a comparison of return rates between the two regions. Compared to Hummel and Weingast's estimated 90% return rate for those tried in the fugitive slave courts, of the "282 freedom suits filed in the St. Louis circuit court between 1814 and 1860," some 40.2 percent won their freedom, while some 46.5 percent were declared slaves, and a further 13.3 did not record the outcome.[278]

While these numbers are illustrative, a comparison of how elements of Philadelphia's Black legal geography fared against the tactics used in the Confluence speaks to the Act's catastrophic impact even more succinctly. To start, freedom suites in the Confluence relied on a network of accumulated Black legal knowledge that identified and transmitted "statutes [and strategies] that could effect their freedom." Not only did the Act render all previous knowledge obsolete, but as I previously demonstrated, the Abolition Society aggressively proselytized the city's Black community to accept *their* wisdom on the matter—including a prohibition on self-defensive violence.[279] Black freedomseekers in the Confluence "obtained competent counsel." As we shall shortly see, by 1850 the Abolition Society's counsellors were certainly esteemed, but they no longer knew how to win fugitive slave suits.[280]

Finally, and perhaps most importantly, a freedomseeker in the Confluence could hold off on filing a suit until they had secured "sympathetic witnesses" to testify on their behalf.[281] The logistics and simple dislocation of fugitive life allowed for none of this crucial case-building. Even if Ingraham permitted a defense counsel time to find, gather, and admit witnesses (which he did not allow in Gibson's case), who would they call upon? Henry Massey was a fugitive

[278] Ibid., 17.
[279] Ibid., 6.
[280] Ibid.
[281] Ibid.

from Maryland who had spent the last five years living under the radar in Harrisburg—who could possibly testify to his identity, status, or good standing amongst his neighbors? Where Gibson was a free man denied access to his witnesses, Massey represents the far greater mass of people prosecuted under the Act—those who found themselves ensnared in a foreign land with few if any connections to the local Black community, to say nothing of the whites whose statements might actually be admitted in a fugitive slave court.

That is not to say Philadelphia's Black community stood idle. While it is difficult to see the full contours of Black Philadelphian's movements during this period, the earlier history of interactions between the Society and the Black community described in Richard S. Newman's biography of Richard Allen, the original founder of Mother Bethel A.M.E. Church, gives some sense of the Black institutions that existed in the city before 1850. In the wake of the Revolution, Allen oversaw the founding of the first Black reform society, numerous autonomous organizations and churches, pamphlets that "pushed not only for slavery's demise but also for black equality," and in 1830 secured Philadelphia's place as the home of the very first Black convention.[282] To all this he added an almost incomparably passionate and powerful articulation of liberation theology—"the notion that God sided with oppressed people."[283] More specifically, he spent a lifetime developing a brand of religious politics that offered "not merely a warning to American slaveholders but hope: [that] by embracing true Christianity, and liberating bondspeople, they could avert the terrible fate that awaited all sinners."[284] Although his

[282] Richard S. Newman, *Freedom's Prophet*, 5-6.
[283] Ibid., 9.
[284] Ibid., 10.

interpretation held that punishment "would indeed come to those who ignored God's sympathy with oppressed people," Allen remained staunchly nonviolent throughout his life.[285]

It seems that Philadelphia's Black community carried forward many of Allen's examples into the mid-19th century. For example, the financial records of Mother Bethel, although badly degraded, do record payments made to David Paul Brown and other attorneys independent of the Abolition Society.[286] As previously discussed, displays of noncompliance and protest against the Society's strictures appear throughout its minutes. These include the aforementioned 1847 sit-in in Clark Hall that pressured the Society into taking action after the Carlisle Courthouse Riot, and the widespread, organized calls to violently repel kidnappers in the weeks after the Act's passage.

Clearly, Philadelphia's Black community was not passive or subordinated in thought to either the Act's enforcers or the Abolition Society. However, they faced obstacles that likely could not have been overcome during the ten years that the Act functioned. First, a revolutionary law threw out any existing legal knowledge base that community would have had. Second, their efforts at adapting to that new reality had to either come through or go around a domineering allied organization that still largely controlled the schools their children attended, the buildings they congregated in, and the attorneys that represented them. In light of these challenges, it is no wonder that when the Black community did demonstrate publicly, they cloaked themselves in the

[285] Ibid.
[286] Mother Bethel African Methodist Episcopal Church (Philadelphia, PA), *Records of Mother Bethel AME Church, 1760-1972*, microfilm, MFilmBX 8445.P5 M6, Drawer 232, Historical Society of Pennsylvania. For the Church's financial records, including receipts of payments to David Paul Brown, see: Roll 3: Receipt Book 1832-1847, Roll 4: Receipt Book, 1840-1847, Roll 5A: Receipts of the Leaders and Stewards of Bethel AME Church, 1846-1851; An Account with the Leaders and Trustees, 1851-1858. Unfortunately, the Mother Bethel collection at the Historical Society of Pennsylvania is badly degraded. It suffered from a lack of preservation resources until the 1970's, as prior to that time regional historical societies did not express any interest in the collection.

few uncontested roles left open to them—local witnesses for Adam Gibson, bodyguards for Jane, and mourners for Henry Massey.

However, if, as Newman argues, "Allen's [nonviolent, uplift-oriented] ideology was perhaps the norm" across the Atlantic world, then there is little of substance that one could criticize the Abolition Society or its legal wing for where relations with the Black community are concerned.[287] Although they sometimes proved overbearing or an impediment to Black organization in the city, the Society did not stop Black Philadelphians from carrying out Allen's long term ambitions. Even when the Society closed their schools and trivialized their causes, Black Philadelphians continued to "[marshal] the tools of modernity (institution building and mass organizing, print culture and public demonstration, [and] the deployment of democratic ideals and nationalist ideologies)."[288] Indeed, even as the impasse over slavery deepened and cynicism over the prospect of Black belonging in the nation grew, the idea of peaceful separation—"a black safety valve beyond American shores"—loomed large in Allen's imagination, though in a somewhat different form from that imagined by the American Colonization Society.[289] These successes should not be overlooked—as Newman notes, whatever his flaws, the efforts of Allen and his fellow Black Founding Fathers arguably provided the means for "[understanding] the genealogy of multiracial democracy."[290]

And yet, whether working towards separation or coexistence, the Black community inevitably found itself sandwiched between two forms of white racism that attacked Black nation building as well as Black individuals. Even in Allen's day prominent white allies, including

[287] Richard S. Newman, *Freedom's Prophet*, 10.
[288] Ibid.
[289] Ibid., 21.
[290] Ibid., 26.

Benjamin Franklin, thought it obvious that "black freedom" could only be realized though "white oversight," an assumption of care intended to counter the presumed degradation of the formerly enslaved.[291] To answer the question posed at the end of Chapter 2, this patronizing position alone would have ensured that Black belonging would remain tenuous, forever subject to severe power imbalances. Belonging built on the trust of equals—of equality "not only before the law but also in the hearts and minds of their neighbors"—could not exist if even well-meaning whites continued to treat Black individuals as wards.[292]

But even worse, a second, metastasizing form of white racism elevated the risk of racial violence drastically as the nation destabilized throughout the 1850's. Just how Black individuals or white activists reacted to the threat of violence could differ drastically, as the departure of the Anti-Slavery Society from the Abolition Society reminds us. After all, neither the Black community nor rival abolitionist organizations were monolithic. Further, the "John Brown" approach of scattershot revolutionary violence was not only impossible to carry out on any great scale in Philadelphia, but likely pointless as well. And yet, the reality of violence remained for Philadelphia's activists. For decades, both white and Black abolitionists had clung to the story of Richard Allen confronting a drunk soldier who had "accosted his black congregation on the street" in 1802.[293] The story served as a kind of ideological North Star for generations of Philadelphians devoted to nonviolent antislavery. On that day the soldier retreated before the preacher's scolding. No blood was spilled, Allen delivered an impromptu lesson on Satanic influence, and a white female onlooker "gushed" after witnessing "a lesson worthy of the greatest preacher."[294] But what if the soldier had fired that day? What if Allen's life had been cut

[291] Ibid., 25.
[292] Stephen Kantrowitz, *More Than Freedom*, 3.
[293] Richard S. Newman, *Freedom's Prophet,* 11.
[294] Ibid.

short, and his legacy reduced to that of a lesser Crispus Attucks? Or, anticipating the reality that would dawn some sixty years later, what if the soldier and his violence were merely the vanguard of a new government out to further shrink the bounds of Black citizenship? I only propose these counterfactuals to reinforce that on a fundamental level, neither the heirs of Allen or Franklin, whether in 1802 or 1862, had any solutions for that intractable problem.

The second form of fallout from the Act's passage only served to compound the difficulties freedomseekers faced from the challenges already enumerated. Despite dozens of egregious rulings, even by 1854 perception of the law as an impartial arbitrator remained strong amongst most white Philadelphians. Most of the city's activist caste clung to a presumption that the law worked less like a tool to be manipulated than an oracle to be consulted. Not only did this ideological stance fly in the face of the daily realities faced by their own clients: it encouraged a dangerous forbearance—even apathy—that people like Henry Massey would pay for, over and over again.

Perhaps no Philadelphian so keenly blended moral repugnance towards the Act with a heavy sense of legal forbearance as David Paul Brown, Philadelphia's preeminent defense attorney and cornerstone of the Society's legal wing. As we shall see in the next section, Brown represented Henry Massey, Adam Gibson, and dozens of other freedom seekers over the course of his 50-year career. His decades of service made him one of a rarefied few (including James Mott, Edward Needles, and to a lesser degree, Passmore Williamson) who lived and served long enough to have witnessed all of the evolutionary turns the Society undertook between 1825 and 1855. Indeed, David Paul Brown—alone amongst the Society's counsellors—incarnated the institutional memory and continuity of the Society's legal clinic. As such, Brown provides a third

triangulation point—and a common denominator—through which the trials of Adam Gibson and Henry Massey may be reconstructed and understood.

An "eminent" and experienced defense attorney, Brown came from the very cream of Philadelphia's legal elite.[295] Born into wealth in 1795, he reportedly studied under Dr. Benjamin Rush as a young man, until Rush's death in 1813 ended his apprenticeship after some six months. Brown instead pivoted into law, working with attorney (and future Pennsylvania Abolition Society President) William Rawle to prepare for the bar.[296] Having passed the Philadelphia Bar on September 4th, 1816, at the age of 20, Brown began a meteoric career that made him a celebrity in his own time.[297] An obituary noted that he "was prominently connected with many of the most important legal cases, both civil and criminal, that are to be found on our court records. His greatest triumphs, however, were won in the criminal court."[298] He would eventually synthesize his years of legal experience into the "Golden Rules for the Examination of Witnesses," which found national purchase for decades after his death.[299] He also developed a formidable reputation as a public speaker, addressing legal associations, clubs, and colleges across the eastern seaboard regularly.[300] He eventually established himself as a author of

[295] *Carbondale Transcript and Lackawanna Journal*, July 8, 1853.
[296] It appears that Rawle made quite an impact on Brown, both as a lawyer and as an abolitionist. When Rawle died in 1836, still holding the office of President of the Pennsylvania Abolition Society, it was David Paul Brown who wrote and delivered his eulogy (see the Society's Meeting Book 1825-1847, p. 277).
[297] R. F. Williams, *The Members of the Philadelphia Bar: A Complete Catalogue from July 1776 to July 1855.*
[298] *Harrisburg Telegraph*, July 12, 1872, 2.
[299] Ibid; Francis Lewis Wellman, *The Art of Cross-Examination* (MacMillan, 1904), 397-404.
[300] David Paul Brown, "First Speech of David Paul Brown, Delivered in 1818, in the Case of the Commonwealth of Pennsylvania Against John Binns: For Assault and Battery: For the Prosecution, G.M. Dallas, David Paul Brown: For the Defense, Jos. R. Ingersoll, Josiah Randall," Robb, Pile & McElroy, printers, 1858.; David Paul Brown, "Speech of David Paul Brown, Before the Mayor's Court of Philadelphia, September 17, 1825: On the Subject of a Riot and Assault and Battery," Robb, Pile & McElroy, printers, 1858.; David Paul Brown, "Speech of David Paul Brown. Delivered in the Court of Oyer and Terminer for Philadelphia County, in the Case of the Commonwealth Against Thomas Washington Smith, on the 18th of January 1858," Robb, Pile & McElroy, printers, 1858.; David Paul Brown, "The Forensic Speeches of David Paul Brown: Selected from Important Trials and Embracing a Period of Forty Years," King & Baird, 1873.; David Paul Brown, "Speech of David Paul Brown. Delivered May 19, 1858, in the Case of the State of Delaware Against Isaac N. Weaver ... Charged with the Murder of J. Edward Roach," Robb, Pile & McElroy, printers, 1858.

middling note, both for his legal and grammatical texts and such plays as *Sertorious: Or, the Roman Patriot* and *The Prophet of St. Paul's*.[301] His reputation as a beloved polymath, stickler for procedure, and showman also served him in politics—he repeatedly held minor offices under the Temperance movement ticket.

However, the Society's minutes allude to certain character elements that made him simultaneously indispensable and (potentially) impossible to work with; dogged in his approach but blinded by pride. His obituary in the *Albany Law Journal* makes mention that he suffered through "a tedious year of waiting" after he passed the bar, utterly unable to secure a client, until he was "by a chance encounter placed in charge of a case which gave him an opportunity for delivering gone of those peculiarly effective appeals to a jury for which he subsequently became so famous."[302] In light of the Society's records, it is no surprise that his first (and desperately needed) professional success came in the form of an opportunity to grandstand. Not only do the minutes corroborate the *Albany Law Journal*'s depiction of him as "friend, counselor, spokesman and orator" for the Society, but also as a genuinely talented opportunist who performed "upon nearly all occasions, important and unimportant, in court, on the rostrum and in the newspapers."[303]

It is difficult to say whether the Society's records have preserved echoes of his sense of honor and devotion to the cause, or the fossilized remnants of his ego and need for attention. Brown attempted to resign from the Society twice, and although the minute books make only the broadest allusions to the reasons why, they certainly testify to both his sense of his own value

[301] David Paul Brown, *Sertorius; Or, the Roman Patriot: A Tragedy* (E. L. Carey & A. Hart; Mifflin & Parry, printers, 1830).
[302] "David Paul Brown, 1795-1872," *The Albany Law Journal*, vol. 6, 1872, pg. 49-50.
[303] Ibid.

and to the *Society's* sense of his value. The first resignation came in March of 1836, and has the aura of a protest resignation letter more so than a serious one. He (literally) underlines that the resignation was from his post as head counsellor, "not of membership," and that on the subject of Abolition, "I am always with you."[304] he states he has written the missive at all to avoid misunderstandings "either by Friend or Foe."[305] Who the foes in question were is unclear; this could have been a statement to other society members, or a disclaimer in case a proslavery outlet caught wind that the Society had lost their star attorney under dramatic circumstances. On the surface, Brown seems to cite what today would be considered "burnout," complaining that for "fifteen years" he had served in any and all capacities "without any assistance from the other counselors of the institution."[306] While this may be true, the fact that the Society never had fewer than six counselors at its disposal at any given time makes for an intriguing mystery. Was Brown really overworked because of fair-weather colleagues, or because his tendency towards the spotlight both overloaded his schedule *and* made him unpleasant to work with? As ambiguity is the archivist's tormentor and the historian's worst friend, we will never know.

The second resignation letter offers a little more context, as it came in June of 1853, following years of losses before Ingraham's court.[307] Curiously, the letter came addressed to Passmore Williamson, a member of the Acting Committee known for his more radical sympathies (in 1855, Williamson would be imprisoned for his role in the aforementioned Jane Escape Case). In it, Brown writes "but now being placed in a peculiar position with regard to one of your counselors, a sense of duty to myself and [my] family now demands" his resignation.[308]

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[304] Pennsylvania Abolition Society, *Meeting Minutes, 1825-1847*, 250-251.
[305] Ibid.
[306] Ibid.
[307] Pennsylvania Abolition Society, *Meeting Minutes, 1847-1916*, 92.
[308] Ibid., 97-99.

Again, propriety obscures the truth in this document. This might have been a clash of egos or a fight over legal strategies—if so, likely with Brown defending his floundering methods against detractors. Perhaps the man was simply tired and dejected after being consecutively beaten by the Act for too many years.

However, the Society's reactions to the two letters are remarkably different. Where in 1836, the Society's leadership (correctly) assumed Brown would recant his resignation in a matter of weeks (which he did), the 1853 letter set off a minor firestorm within the organization. Although they tentatively accepted the resignation at first, the following meetings invited a storm of debate, and formal attempts to woo Brown back.[309] Whether or not these efforts had the desired effect is unclear, but Brown's resignation was ultimately rejected, and he was reelected as counselor a month later.[310] Though his record faltered against the Act, Brown still remained a singularly influential and wealthy member of the Society. Another obituary reported that in addition to a large family inheritance, Brown's income by the end of his fifty-five-year legal career in the late 1860's, amounted to more than "a quarter of a million" dollars per annum.[311] For comparison purposes, that equates to a modern income of over $5,700,000 in 2023, meaning that Brown's earning power put him in the same category as a partner at one of the largest law firms in the world—Latham & Watkins.[312]

Although nominally raised Quaker, a sense of religiosity rarely shone through in his legal writings. Yet while defending suspects from state charges in the wake of Christiana, Brown's

[309] Ibid.
[310] Ibid., 99.
[311] *Literary Landmarks of Philadelphia*, p. 45-48.
[312] CPI Inflation Calculator, https://www.in2013dollars.com/us/inflation/1870?amount=250000 (calculated from 1870 rates).; Bloomberg Law, "Profits Spike, Partners Ponder: Cash Out or Make a Fortune?" https://news.bloomberglaw.com/business-and-practice/profits-spike-and-partners-ponder-cash-out-or-make-a-fortune

dramatic delivery became widely reprinted as the "Speech Upon the Higher Law."[313] He addressed the court, with no small sense of satire,

> We admit, while we deplore the existence of the law of 1850, it is the law, however, and no man can legally resist it. In the trial of this case, as its authority is admitted, it is idle to discuss the question in regard to its expediency or justice. Montesquieu tells us that were was formerly a law among the Turks that condemned every man to lose his head who had red hair. This would strike us at least as extraordinary, and yet, if Liberty be dearer than life, as our fathers have taught us, it is hardly more extraordinary, than that every man who bears "the shadowed livery of the burnished sun" should be pronounced a Slave, or that those who sympathized with him should be deemed malefactors.[314]

Although his position did not challenge the Act directly, Brown used his pulpit to suggest a practical remedy steeped in divine intention: "its remedy is left to Divine Justice, or if you would have it so, the Legislatures—the Higher Law."[315] Excoriating the reign of "Marshal Kline['s]… myrmidon man-hunters" who had turned Pennsylvania into "the mere hunting ground of the Nimrods of the South," he cautioned the court that "he who does not know [the Higher Law] will sooner or later know what is the LOWER LAW."[316] Brown concluded his address with an uncharacteristic threat:

> How long, my Countrymen, has it been since we have grown so great as to assume to trample upon that Almighty Power…. How long is it, guarding as we do our National Institutions so jealously, since we impiously dared to commit bold-faced treason against high Heaven? Let it ever be remembered, in the language of the Book of Eternal Life, "That the Lord is KING, be the people never so impatient.[317]

[313] David Paul Brown, "Abstract from David Paul Brown's Speech Upon the Higher Law," 1851.
[314] Ibid.
[315] Ibid.
[316] Ibid.
[317] Ibid.

So how are we to interpret Brown's ostensible embrace of agitation theology? To start, whether Brown coined or borrowed the phrase is difficult to determine without a dedicated research effort. Certainly the concept would have appealed to certain firebrand pastors such as William Furness, and the phrase did make appearances beyond this speech. But whatever its origins, the rhetorical device succeeded because it struck a useful balance between emotional appeal and strategic vagueness that made it all the more alluring to disparate groups. In a religious sense, the concept of the "Higher Law" was something of an empty vessel—it held the values that people poured into it. Brown himself could have spoken the phrase from a place of religious awe one moment and cold calculation the next. Simultaneously, to a Black audience member the same words could convey the reassurance of divine covenant or just more equivocation from mealy-mouthed allies.

However, its political subtext was unambiguous. First, the "law" was the only acceptable arbiter for the bitter racial, sectional, and political disputes raging across the country. Second, the "law," however badly highjacked and bastardized, could only arbitrate in the absence of violence. In practical terms, Brown's appeal to the "Higher Law" merely reflected the wider dodge being made across the state by other moderate abolitionists, Governor Johnson included. However, it is hard to imagine that Pennsylvania's court officers and elected officials could have made a greater Faustian bargain. Whether through ignorance or avoidance, the speech left unspoken the dreadful possibility that perhaps force itself was the highest—or at least the most primordial—law. After all, in lieu of divine intervention or a miraculous reversal amongst the nation's proslavery bloc, it is hard to imagine that anything *but* sectional violence could fill the legitimacy vacuum that had already begun to materialize thanks to the Act's violations.

Nonetheless, it is hard to imagine that Brown did not enter Ingraham's court fully confident in his interpretation of the "Higher Law." Borrowing from Alfred Brophy's scholarship, the attitudes distilled by the speech can be understood as just a local implementation of a wider ideological consensus about the "greater good"; the "utility [of a given action or law] to society and humanity [versus] to individuals."[318] When U.S. Secretary of State Daniel Webster made his notorious speech in favor of the Act as a moderating force between the sections, despite the slings and arrows he was, on a fundamental level, simply articulating an argument that Governor Johnson's and David Paul Brown's own actions mirrored: "the practical in politics and law [is]: take the world as it is, rather than it ought to be."[319] Dubbed "practical reason," Webster juxtaposed it with "abolitionist extremism," of which he lamented "I think their operations for the last twenty years have produced nothing good or valuable."[320] As the Society's records suggest, the bulk of Philadelphia's activist caste shared the same worries about the danger of moral absolutism. As Brophy explains, the radical abolitionist fixation on the "boundaries…between right and wrong" was a symptom of a larger evangelical trend of accentuating perfection: "In fact, perfectionism was a central trope of the religious excitement of the 1840's and 1850's."[321] Those same years had imparted a very different message to the Society's leadership. With their enthusiasm tempered by revolving catastrophes, when faced with the choice to "do justice in individual cases or look at the picture as a whole," the decision had already been made and seconded.[322]

[318] Alfred L. Brophy, "Utility, History, and the Rule of Law: The Fugitive Slave Act of 1850 in Antebellum Jurisprudence," *Transformations in American Legal History*, 2009, 113.
[319] Ibid.
[320] Ibid.
[321] Ibid., 114.
[322] Ibid.

Yet, we must remember that Adam Gibson and Henry Massey likely knew none of this when they accepted David Paul Brown's offer of representation. Even with the advantage of hindsight, time, and access to an abundance of public and confidential documents, who David Paul Brown was as a man and an attorney remains a mystery. If asked to write a referral on his behalf to Gibson or Massey (and forgetting that they had near-zero flexibility in their choice of counselor), I would be hard pressed to know what to say. The same issue extends to the Ingraham court itself, and the tenor of the Society's legal efforts as a whole. Unless they had obsessively tracked the goings-on of a city that neither man called home, then it is unlikely that either could have anticipated the degree to which the ideology of abolitionist forbearance would manifest itself in the courtroom. In Henry Massey's case, if he had heard anything of Ingram or his reputation It likely would have been in relation to the most singularly damaging case ever held in the Commissioner's court—that of Adam Gibson in December of 1850. As we shall see, although that dramatic moral win for Pennsylvania's resistors was both unearned and accidental, the fact that Adam Gibson ultimately retained his freedom may have offered Henry Massey a reason to trust in his own deliverance four years later.

Waiting on the "Higher Law": The Trials of Adam Gibson and Henry Massey

Henry Massey's life in Harrisburg came to a crashing halt on September 23rd, 1854, when a capture party led by Deputy Marshall William Birly seized him "on the canal at the upper part of Harrisburg."[323] Although the records of Ingraham's court for his are no longer extant, the timeline of Henry Massey's arrest, trial, sentencing, and return to Maryland can be reconstructed

[323] "Another Fugitive Slave Case," *National Anti-Slavery Standard*, Sept. 30, 1854; *New York Tribune*, Sept. 27, 1854;

from the wealth of newspaper coverage his case attracted at the time. Although it was short-lived, Massey's case drew national attention, with at least 19 issues spread across 16 newspapers papers that covered his case between September 26th and October 13th, 1854.[324]

The first known coverage of Massey's case ran on September 26th in *Frederick Douglass's Paper* and the *Buffalo Daily Republic*, establishing that his case "was heard yesterday [September 25th], and then postponed till the second of October," in order to give each side time to establish or deny Franklin Bright's claim to ownership.[325] The *Charleston Daily Courier* reported on the 29th that Massey had been

> Arrested at Harrisburg, on Saturday [September 23rd], claimed by FRANKLIN BRIGHT, of Maryland, as a fugitive slave, and on the same evening, at Philadelphia, a hearing was commenced before a Commissioner [Ingraham], who adjourned the case until Monday morning [September 25th], in order to allow the alleged fugitive time to procure counsel.[326]

A man in Massey's position could only expect two kinds of representation—bad-faith attorneys out to farm fees from the desperate or pro-bono representation by sympathetic allies.[327] In this case, Massey found allies in the Pennsylvania Abolition Society's legal arm. While the District Attorney J. C. Vandyke represented Franklin Bright, the attorneys W. A. Jackson and, predictably, David Paul Brown represented Massey.[328] However, when Massey and Brown

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[324] Considering that the author only had access to a limited number of online newspaper databases, and few physical repositories, it is possible that more coverage of the case exists than is currently known.
[325] *Frederick Douglass Paper* (Rochester, NY), Sept. 26, 1854; *Buffalo Daily Republic* (Buffalo, NY), Sept. 26, 1854.
[326] *Charleston Daily Courier* (Charleston, SC), Sept. 29, 1854.
[327] Anne Twitty, *Before Dred Scott: Slavery and Legal Culture In the American Confluence, 1787-1857,* (Cambridge, UK: Cambridge University Press, 2016). For a colorful and thorough illustration of the relationships between Black claimants and their counsel during freedom suits, see the second and third chapters, "With the Ease of a Veteran Litigant," and "By the Help of God and a Good Lawyer."
[328] *New York Tribune*, Sept. 27 and Sept. 28, 1854; *Pittsburgh Gazette*, Oct. 2, 1854; *National Era*, Oct. 5, 1854; *Anti-Slavery Bugle*, Oct. 7, 1854.

walked into Commissioner Ingraham's court, they arguably did so under better conditions than previous defendants had encountered.

When Massey faced his judge, Ingraham appeared a changed man—though entirely unrepentant. As previously recounted, in the years since the Act's enforcement began in Philadelphia, cooperation between the Abolition and Anti-Slavery societies of Pennsylvania had both provided regular legal representation *and* media coverage of every fugitive slave case heard in the city. The cumulative effect surely wore away at the Ingraham court's authority, but it also gutted his personal reputation. Despite having come to the Philadelphia Bar just some three years before Brown, Ingraham's life had taken a far less impressive course.[329] Although he had at one point been appointed "Secretary to a committee of Congress, to investigate the affairs of the second Bank of the United States," the rest of his career proved largely unremarkable, perhaps explaining how "one of the least desirable offices a Northern man can hold" became his final post.[330] Indeed, age and illness had likely diminished him as a figure of terror—he had barely a month of life left in him at the time he tried Massey's case.

After his death on November 5th, 1854, Ingraham was remembered in one of his more flattering obituaries as an "eminent bibliophist [who] will no longer crack his jokes for the benefit of the few friends who could appreciate them."[331] Besides his lifelong affinity for books and his polyglot status, one commentator lingered on his curious phrenological features—a "considerable magnitude of skull," a "somewhat singular" gait, and a "sanguine-nervous

[329] R. F. Williams, *The Members of the Philadelphia Bar: A Complete Catalogue from July, 1776 to July, 1855.*
[330] Henry Simpson, *The Lives of Eminent Philadelphians Now Deceased*, 1859, 596-600.
[331] Ibid., 596.

temperament" that garnered comparisons to men of "large heads and little wit."[332] Despite this, the author saluted his sacrificial efforts as Philadelphia's Fugitive Slave Commissioner:

> …for one to do justice in [the role of Commissioner], he must necessarily have the whole abolition party against him. In fact, in all the Middle States the spirit of the people is entirely opposed to it; hence such a position cannot confer any particular favor on the man who has the courage to hold it, and the boldness to execute its provisions. But Mr. Ingraham was just the man for this office; he cared not for public clamor; he was guided solely by the law…[333]

This poor impression of Ingraham, even amongst champions of the Act (which, incidentally, help to explain why so few traces of his material legacy survive when compared to David Paul Brown), resulted from more than a determined smear campaign. In a very real sense, the lack of care for legal procedure that made Ingraham so suitable for carrying out the Act's mandate also damned him in name and memory. A particularly poorly reasoned and ethically compelling misadventure unmade his court's reputation on literally its first day: the false conviction and return of Adam Gibson.

One Saturday morning in late December of 1850, Adam Gibson, a free Black resident of New Jersey, made the mistake of going to a Philadelphia market at the corner of Second and Lombard streets.[334] Three men, including George F. Alberti—a notorious convicted kidnapper in the state of Pennsylvania—accused Gibson of stealing chickens before bundling him into a carriage bound for a nearby courthouse.[335] Once word circulated that Gibson was being held illegally, counsel from the Abolition Society arrived. Alberti produced no warrant for Gibson's arrest, but apparently the veteran kidnapper had other ideas for how to get Gibson before a

[332] Ibid., 597.
[333] Ibid., 599-600.
[334] *The National Era*, January 2, 1851.
[335] Blackett, *The Captive's Quest for Freedom*, 339-345.; "A Review of the Trial, Conviction, and Sentence, of George F. Alberti, for Kidnapping," 1851.

judge—after all, a spontaneous charge of chicken theft would carry no warrant. Unaware of the "plot" aimed at him, and confident in his ability to prove his free status, Gibson insisted that "he was an innocent man, and had a right to be regularly cleared."[336] Having consented to a trial for theft, Gibson suddenly found himself accused of being "the property of William S. Knight of Cecil County, Maryland"—a runaway slave called Emery Rice.[337]

A legal defense team quickly assembled from across the city, including attorneys W. S. Pierce, T. B. Hanbest, and David Paul Brown. With even less time to clarify the facts of the case than Gibson himself had been granted, the attorneys set about protesting the unusual procedural moves made by Ingraham. Citing the Act's promise of a "summary" hearing, Ingraham attempted to force a judgement before Gibson's attorneys could even "make themselves acquainted with the claimant's case," much less prepare a successful defense.[338] Citing a precedent from an earlier Pennsylvania fugitive slave case, Gibson's lawyers insisted on a continuance to allow time for witnesses who could establish Gibson's true identity to gather from New Jersey and Delaware. Both the prosecuting attorney, W. E. Lehman, and Commissioner Ingraham shot this request down, and the trial proceeded with only Gibson's kidnappers as witnesses.[339]

Even so, the testimony from Alberti and his minions made for an astoundingly farcical trial. James S. Price swore that he had identified Gibson as being Emery Rice because, some ten years prior, he had seen Gibson/Emery Rice "pass my house with Mr. Knight's spring horse,"

[336] *The National Era*, January 2, 1851.
[337] Ibid.
[338] Ibid.
[339] Ibid.

though he could not confirm what year Rice had escaped.[340] When Ingraham insisted that "When a colored man is engaged at work for a slaveholder in Maryland, the presumption is that he is a slave," Hanbest pressed Price on the point until he admitted "I can't say that there are not colored persons employed who are not slaves."[341] Another witness, who testified to being already "bound over" in connection with a separate kidnapping case admitted that, although he "knew" Rice, he "knew of no arrangement to make the arrest," that he "[had] no interest in this case," and that he had not confirmed that Gibson was indeed Rice by either visual or voice recognition.[342]

Remarkably, Brown convinced Ingraham to put a young colored man on the stand who identified, by name and distance from Philadelphia, some six or more witnesses who could be found to testify on Gibson's identity. Hanbest warned Ingraham that the public would demand accountability if the defense were not permitted to gather these witnesses: "If such be the construction of the word summary, no free colored man in Pennsylvania is safe. No free colored man is out of the power of G. F. Alberti and his accomplice Price."[343] Grudgingly, Ingraham finally admitted two of the nearest witnesses, "two respectable colored men," who independently corroborated that Gibson had been freed by his late master's will, a document "which they never saw."[344] By the end of Brown's closing oration, even the prosecuting attorney, Lehman, stated that "he hoped that the Commissioner would discharge the boy if he had any doubt of his identity."[345] But Ingraham made his mind up at the start. Marshall Kline separated Gibson from his wife and two children, and a sympathetic but peaceful crowd followed Gibson to the train

[340] Ibid.
[341] Ibid.
[342] Ibid.
[343] Ibid.
[344] Ibid.
[345] Ibid.

depot at Eleventh and Market streets, from whence he "returned" to Mr. Knight in Maryland.[346] Summarizing the Gibson case as a stunningly perfect symbol for both the moral and legal unfairness of the Act, the *New York Tribune* ruminated that just because Mr. Knight had immediately objected that Adam Gibson was, in fact, not Emery Rice, "That *might* happen in another case, and then it might not."[347]

Ingraham never emerged from underneath Adam Gibson's shadow. By February of 1851, the *Gettysburg Star and Banner* was already lamenting the hypocrisy that Philadelphia and the Ingraham court had become known for:

> Philadelphia is becoming "famous" for the frequency of the fugitive Slave cases, under the processes issued by Mr. Commissioner INGRAHAM—the same man who, some months since, in his zeal to carry out the provisions of the new law, consigned to Slavery a free colored man [Gibson], whose freedom was so unquestionable that the litigant refused to receive him as a slave when brought to him![348]

Still, Massey's attorneys might well have consoled him that the tide was beginning to turn. The Gibson debacle had chilled Ingraham's eagerness for same-day decisions, and later defendants such as Massey stood to benefit from the chance to create a proper defense strategy. Even better, the political pressure caused by the abolitionist outrage machine had begun to bear real fruit in Pennsylvania. Commissioner McCallister of Harrisburg had resigned his appointment in March of 1853, and the post remained so tainted that no one ever filled it—hence why Henry Massey had to be transported to Philadelphia in order to get a hearing.[349] During the initial examinations on Monday, September 25th, 1854, Brown and Jackson raised the question of

[346] Ibid.
[347] Ibid.
[348] "Another Fugitive Slave Case," *Star and Banner* (Gettysburg, PA), Feb. 14, 1851.
[349] R. J. M. Blackett, *The Captive's Quest for Freedom*, 291.

whether Massey legally belonged to Francis Bright, as Joseph Bright had died the previous summer without specifically mentioning Massey in his will.[350] Only a clause stating that his property should be divided amongst his siblings if his wife and child were to not survive their illness possibly tied Massey to Franklin Bright.[351] Based on the *Sun*'s reporting that the question before the court was "the title of [Franklin] Bright to the slave under the will of the father," it is likely that both James *and* Joseph's wills were ultimately produced to the court, with the above clause from Joseph's bearing the greater weight.[352] In light of this uncertainty, Ingraham postponed the case for one week, until October 2nd, to allow each side to gather witnesses and prepare their cases.[353]

With no comprehensive body of court records available, it is unknown exactly what rationale Ingraham gave for his decision. It likely came down to the court's preference for one source of testimony over another, much as it had in the Gibson case. Henry Massey provided his affidavit, but the claimant countered with Deputy Marshal Birly's testimony that Massey had stated, at the time of his arrest, that he "owed service" to the Bright's, and that of Woolman E. Lynch, Franklin's brother-in-law and a Kent Island resident who testified to Franklin's ownership of Massey.[354] A Black man, whatever his status, could do little to challenge or invalidate this testimony. Whatever the reality, Massey's defense did not hold out for long. On

[350] *Charleston Daily Courier*, Sept. 29, 1854; New York Tribune, Sept. 28, 1854.
[351] Ibid.
[352] *Baltimore Sun*, Sept. 27, 1854; James Bright, "Last Will and Testament of James Bright" (1845); Joseph F. Bright, "Last Will and Testament of Joseph Ferdinand Bright" (1853), Liber T.C.E., No. 2, Folio 371, Queen Anne's County Register of Wills. Accessed April 8, 2021, at Queen Anne's County Courthouse, Centreville, Maryland.; *The National Anti-Slavery Standard* on Sept. 30th, 1854 also quoted the *Philadelphia Evening Bulletin* on September 25th, 1854, that Massey's attorneys had specifically requested time for the wills to be brought up from Maryland.
[353] *Frederick Douglass Paper* (Rochester, NY), Sept. 26, 1854; *Buffalo Daily Republic* (Buffalo, NY), Sept. 26, 1854.
[354] *New York Tribune*, Sept. 27 and Sept. 28, 1854; *Pittsburgh Gazette*, Oct. 2, 1854; *National Era*, Oct. 5, 1854; *Anti-Slavery Bugle*, Oct. 7, 1854.

October 4th, after two days of deliberation, Ingraham decided in favor of Franklin Bright.[355] The *National Anti-Slavery Standard* captured the atmosphere of the courtroom when it reported that

> …the whole affair passed off, according to the stereotyped phrase, "without excitement." A few friends of the slave were present at the rendition, and Mrs. [Lucretia] Mott went forward to the carriage in which the fugitive had been placed, shook hands with him, and administered some words of rebuke to those who had consented to become the tools in this dirty business.[356]

Massey's case demonstrated, once again, the lopsided arithmetic intentionally built into the Fugitive Slave Law. The cumulative effect of a law that forbade fugitives from testifying directly, denied them a jury, and paid Commissioners $10 for each fugitive returned versus $5 for those set free was that "in almost 90 percent of the total cases, or 80 percent of the federal cases, the fugitive was hauled back South."[357] The court transferred Henry Massey into the custody of a Sarah E. Lynch, a relative of Woolman E. Lynch living in northeastern Queen Anne's County, near Crumpton.[358] Accommodations docket records identify her as the signatory checking Massey into a secure inn or jail back in Maryland on the night of October 4th and retrieving him on the morning of the 5th.[359] The fact that the then-thirty-nine year old white female would be the one entrusted to transport Massey back to Stoopley Gibson raises certain

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[355] Ibid.

[356] "Our Philadelphia Correspondence," *National Anti-Slavery Standard*, Oct. 9, 1854; Lucretia Mott was well-known Quaker Abolitionist, suffragist, and Underground Railroad operative, as well as a regular fixture in Commissioner Ingraham's courtroom. She made appearances in a number of previous fugitive slave cases and was a commanding presence during the Treason Trials that followed the Christiana Resistance in 1851. For more information, consult the following: Carol Faulkner, *Lucretia Mott's Heresy: Abolition and Women's Rights in Nineteenth-Century America* (Philadelphia: University of Pennsylvania Press, 2013).

[357] Hummel, Jeffrey R. and Barry R. Weingast, "The Fugitive Slave Act of 1850: Symbolic Gesture or Rational Guarantee?" Working Paper, January 2006. The authors drew this figure from an analysis of 332 fugitive slave cases between 1850 and 1860 as identified by Historian Stanley W. Campbell, in his 1970 monograph "The Slave Catchers: Enforcement of the Fugitive Slave Law, 1850-1860."

[358] 1850 Census of the United States, Election District 2, Queen Anne's County, Maryland, digital image s.v. "Sarah E. Lynch," Ancestry.com. Accessed April 2nd, 2021.

[359] Maryland State Archives, Legacy of Slavery in Maryland Database Search, "ACCOMMODATIONS," s.v. "Massey, Henry," http://slavery.msa.maryland.gov/html/links/records.html. Accessed May 1, 2021.

questions. Her census records reveal her to have been a single head of household, with eight slaves to her name.[360] It is unclear whether she was widowed previously, but it is clear that by 1850 she had full command role over her household while still deriving much of her wealth from her slaves. Franklin Bright may have entrusted her with Massey simply because she had experience in managing a large contingent of enslaved people. Alternatively, she might have made trading, tracking, and capturing enslaved people her business. Whatever the exact truth is, to Henry Massey she *was* a slavecatcher in the most literal and imminent sense.

Conclusion: Second Slavery, Second Freedom

Little is known of Henry Massey's life during his second slavery. We do not know the time, means, or circumstances by which he found his permanent emancipation. However, his story continued to combat both slavery and the law that had returned him to it in small ways. Although the newspapers lost all interest in Massey after the court case, Samuel May and his compatriots in the American Anti-Slavery Society remembered his name. In 1856, and then again in 1861, Massey's name and story was listed among many others in May's *The Fugitive Slave Law and its Victims.*[361] Part history, part memorial, part manifesto, this book served to both recruit for the Society and agitate at all levels against American complacency to the law. Henry Massey was but one victim of the Fugitive Slave Law, and yet his struggle for freedom in the public eye lent weight to "a testimony against our land and our people," and acted as a reminder

[360] 1850 Census, s.v. "Sarah E. Lynch,"; 1850 United States Census Slave Schedules, s.v. "Sarah E. Lynch," Ancestry.com. Accessed April 3, 2021. The unspecific nature of the 1840 census, the lack of a digitized 1830 census for the county, and a lack of preserved local newspapers makes it difficult to further establish her story or character.
[361] Samuel May, *The Fugitive Slave Law and Its Victims*, (New York: American Anti-Slavery Society, 1856). An 1861 edition was also produced.

in the days leading up to the Civil War that the ramifications of the Act, and the institution of slavery, would no longer brook neutrality.[362]

At the same time, considering the radically changed process by which fugitive courts constructed Black identity after 1850, we must consider the possibility that the man history already barely remembers as Henry Massey was *not* Henry Massey at all. When faced with the singular, grinding logic of the slave courts, as observers had noted in the wake of the Gibson case, a fugitive's "true" identity only mattered in instances where an unusually honest slaveholder insisted the man or woman before him remained a stranger. One might object that, in the event the court misidentified a defendant that person could, through their legal representation, plead the truth of their own identity. Adam Gibson certainly did so. But then again, Adam Gibson evinced not just hope, but an ironclad conviction as a *free* Black man of some right—however curtailed—to prove his own identity and clear his reputation in a public hearing. Indeed, the professional kidnapping crew that snared him seemingly relied upon his confidence. A cowed man would not have willingly walked into the house of justice if he thought justice unobtainable.

So, I ask again—had Henry Massey dared to hope? If he had, we the living might take comfort in assuming we had resurrected anything at all of the man. We might excuse the documentary gaps surrounding his five years in Harrisburg, or of his second slavery once the Act had returned him to Franklin Bright's charge. Perhaps we might take a modicum of satisfaction in knowing that some man, moving and breathing under the moniker of "Henry Massey," lived a long, upwardly mobile life in Queen Anne's County after the Civil War, surrounded by family

[362] Ibid., p. 164; 161; 164.

and supported by neighbors so knit together from their shared experience of slavery at Stoopley Gibson that they might well have considered each other kin.

We will never know the entire truth. We will never find ourselves in a position to say, verifiably, how Henry Massey—*whichever* Henry Massey sat in Commissioner Ingraham's courtroom—understood his predicament. The balance of the evidence suggests that Henry Massey was, most likely, the same person who had escaped Kent Island in 1849. But our very hesitation raises a salient point about the Fugitive Slave Act itself: the balance of power written into the law leant an awesome weight to a Commissioner's ability to augment reality at the stroke of a pen. We know Commissioner Ingraham did exactly this to Adam Gibson—converted him as if by an obscene sacrament into the runaway slave Emery Rice—only because a Mr. Knight of Cecil County, Maryland chose to speak out. A legal fiction still carries the legitimacy and consequences of properly executed law.

Many Philadelphians grasped the truth of that assertion with almost pained clarity in the wake of the Gibson case, hence why Gibson became a refrain for the injustice of the Act itself long after he walked free. The reportage of the intervening years between Gibson and Massey's trials, bolstered by organized agitation and constant shaming from the assorted friends of the slave in Philadelphia, menaced the Ingraham court. The aged Commissioner, mere months from death at the time he adjudicated Massey's case, seemed more hyena than lion by his end. He remained a predator, but one that could finally sense that there were, in fact, limits to his power—that the flesh his office fed upon was getting riskier to catch with each passing year. And yet he tore out the throat of Massey's freedom claim all the same.

As I write the closing pages of this monograph, I feel compelled to reflect on why I started this project in the first place. I discovered Henry Massey through a Fellowship research

program, and after reconstructing his biography to the best of my ability, the silences in his story—and in the historiography that surrounded it—drew me to Philadelphia. The city seemed to have been largely forgotten in the wider literature on the Fugitive Slave Act. Considering my experience researching Underground Railroad sites, I could not fathom why the city of William Still would carry less weight among scholars of the Act than distant Boston—why Anthony Burns had survived in the historical record while Henry Massey had been lost.

This probe led me to another bothersome question—just why had Boston and parts of New York State—even Harrisburg, Pennsylvania—managed to neuter their fugitive slave courts and run off their Commissioners, yet Philadelphia had not? I wanted to understand who the key players within the city were, and, without getting into counterfactuals, gain some sense of whether a different outcome might have been possible. I wanted to autopsy Philadelphia's abolitionist activities with the priorities of men and women like Henry Massey in mind, and from that starting point, figure out what went wrong. Resolved to provide richer contextualization than previous scholars of the topic had, I quickly ascertained where power in the city did and did not congregate. Between 1850 and 1855, the Pennsylvania Abolition Society and Edward Ingraham's fugitive slave court formed *the* axis of power around which all other organizations within the city maneuvered.

Without understanding both institutions—the infrastructure of the Act and its largest, most asset-rich, best pedigreed opponent—it seemed impossible to answer my third question: what role did Philadelphia's Black community play in the drama? While the literature of Massachusetts or New York depicted Black pamphleteers, Black self-defense forces, Black vigilance committees who broke innocent people out of jails and conducted them northwards, the effects of archival degradation and selective institutional memory had rendered their presence

almost invisible in Philadelphia. Had the community truly not shown up for captured freedomseekers? Or had its presence been contained, rolled back, and erased by its enemies *and* allies alike? I knew the answer would be difficult to swallow either way; it is impossible to read nearly a thousand pages of meeting minutes for a group of people and not come to feel you know them in some way. After all, the hints of drama hidden within such records must be dug out of a deep topsoil of mundane goings-on. You learn quickly that mundanity makes up the mass of human existence, just as it forms the bulk of our records. And yet, that same mundanity inevitably humanizes the subjects you study.

As you attempt to weigh the success and failure of an organization like the Pennsylvania Abolition Society, you inevitably come across relatable (even endearing) reminders of human fallibility. Just like any modern non-profit organization, the Society scheduled meetings for the wrong day, forgot to post notices, and—in one particularly memorable case—lost a minute book for over five years.[363] The recording secretary scribbled the notice of its rediscovery with the same gusto as they evinced almost twenty years later while entering the words of the Emancipation Proclamation into the record, *almost* verbatim. A "***Long Lost Minute Book***."[364] A long awaited deliverance; "***Shall be Thenceforth and Forever Free!***"[365] In a minute book, the mundane and the profound literally sit side by side.

With that confession, I do not intend for the following conclusions to either absolve or condemn, but to guide both future scholars on the topic, and (should they ever read this) activists and activist-attorneys in the here and now. First, Philadelphia's white activist caste—the social, religious, and legal elite of the city—clearly resisted the Act, but only within the bounds afforded

[363] Pennsylvania Abolition Society, *Meeting Minutes, 1825-1847*, 420; Ibid., 512.
[364] Ibid., 512.
[365] Pennsylvania Abolition Society, *Meeting Minutes, 1847-1916*, 155.

them by ideological, institutional, and racial norms. Indeed, while these resistors constantly claimed that their efforts were a fitting continuation of Pennsylvania's noble anti-slavery legacy, the truth was more nuanced. For all its contributions towards emancipation between 1780 and 1850, Pennsylvania compromised on the most important element of all—the *Chattel Principle itself.* Unwilling to explicitly renounce, through political, legislative, or judicial action, the conceptual right of slaveholders to hold property in persons the State of Pennsylvania simply would not, and did not, go far enough to protect its colored citizens from the new forms of weaponized law the Act debuted.

Additionally, the practical value of the Society's efforts, from the perspective of Philadelphia's besieged Black community, or the Black freedomseekers brought before Ingraham's court, declined sharply after the Great Panic of 1837, and even more so after the Act's passage in 1850. The near collapse of the Society during the intervening years, precipitated by financial malfeasance, mob violence, and internal strife, reads in retrospect like a local dress rehearsal for the bloody national drama that lay ahead. In that sense, it is unsurprising that the institutional memory of that internal crisis would produce risk-averse decision-making when the second, far worse crisis reared its head.

However, Philadelphians' resistance did have a perceivable impact on the speed and surety with which the Ingraham court carried out its mandate. The city's outrage machine, which steadily spilled over the state line and into the far corners of the country, not only punished Ingraham personally for his role in executing the Fugitive Slave Law but also created something of a watchdog movement for his court, albeit one with little will to directly intervene. The overlapping efforts of the Pennsylvania Abolition Society, the Pennsylvania Anti-Slavery Society, William Still's Vigilance Committee, and William Furness's Unitarian Church

progressively gummed up the Act's inner workings in Philadelphia. By articulating and broadcasting potent narratives that attacked both the moral and legal fairness of the Act, these groups developed methods for public condemnation that, although insufficient in Philadelphia, would succeed elsewhere.

However, this last realization brings us to the third lesson from Henry Massey's ordeal. Public efforts to oppose the Act almost always produced moral rather than practical victories, and the cost of these half-gains fell almost exclusively on Black defendants. By contrast, no matter the number of cases lost, white activists like David Paul Brown and Lucretia Mott would still be paid, lauded, and permitted to remain free and above the Mason-Dixon Line, poised to try again another day. Perhaps the greatest legacy of Philadelphia's struggle against the Act is that it testifies to an uncomfortable truth, long ignored in the historiography and in the popular mythology surrounding the subject: abolitionist victories in Massachusetts and New York were anomalies, not the norm. The recaption machine itself continued to run in the vast majority of jurisdictions, whether through *de jure* or *de facto* means, as Hummel and Weingast's calculations remind us. The law emboldened a growing industry of slave catchers, kidnappers, and vengeful slaveholders to penetrate the sanctuary cities of the North at rates previously unheard of. By criminalizing any refusal to aid a slaveholder in recovering his living property, the Act minimized the personal risk posed to masters while exponentially increasing the practical dangers faced by anyone who defied the Act. In response, in Philadelphia opponents of the Act cobbled together soft power strategies built on a rhetoric of shame and fairness. Neither altered the material fact that proslavery forces had created an airtight bill that still served the broader mission of opening up free states to effective capture and return efforts in spite of the rare instances where it set people free.

Above all, the story of the Fugitive Slave Act in Philadelphia offers a reminder that, although the Christiana Resistance and its failed treason trials, the Adam Gibson case, or any number of other outrages proved debacles and embarrassments for the pro-slavery bloc nationally, they did not neutralize the Act's influence—nor did they prevent civil war. Despite decades of appeasement efforts made by Philadelphia's best and brightest, violence still supplanted law as the ultimate arbiter for the greatest dispute of the era. Perhaps such an outcome became inevitable as soon as Senator Mason set out on his "draconian" path—a quest for power built on bad faith in lieu of compromise. The fact that an unknown number of slave recaptures never even went through the court system is perhaps the clearest, most chilling reminder that in the struggle over the Act, one side's agitation came from a place of restraint and forbearance, while the other side asserted itself through the gang and the gun. Thus, when the Civil War finally came, it must have come as no great shock to Henry Massey. As a man whose life had been irrevocably altered by the inequities of a system his white attorneys had never quite found the courage to abandon, Massey was all too familiar with the cognitive distortions surrounding race, slavery, and Black personhood that had fatally eroded the nation's cultural and legal cohesion. Perhaps when the war came, he allowed himself to feel some satisfaction in the turning of the seasons—the promise of parity written into the Book of Ecclesiastes. Just under ten years after Massey's condemnation, the Act met its end much as he had in October of 1854: overpowered, judged, and condemned by a "Higher Law" at long last.

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