The "Abolition Riot" Redux: Voices, Processes

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IN 1952 in the *New England Quarterly,* Leonard W. Levy—then a young legal historian—published a short article about the dramatic rescue of two women, presumably fugitives from slavery, from a Boston courtroom in 1836. The largely African American crowd rose up just as the judge was declaring their detention illegal and the slaveowner's agent was asking about seizing them anew.[1] The records of the events of that day—coincidentally the second anniversary of emancipation in the British Empire—are not only scarce but profoundly biased in various ways. A handful of journalists were in the courtroom. Others relied on their accounts and other sources.[2] The people in the courtroom were focused on different aspects of the

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[1]Leonard W. Levy, "The 'Abolition Riot': Boston's First Slave Rescue," *New England Quarterly* 25 (1952): 85–92. A revised account appears in Levy, *The Law of the Commonwealth and Chief Justice Shaw* (Cambridge, MA: Harvard University Press, 1957), 72–78.

[2]This account relies on the court file for *Commonwealth* v. *Eldridge,* August 1836, Supreme Judicial Court, #218, RCC 68, Massachusetts Judicial Archives, Massachusetts Archives, Boston (hereafter *Eldridge* case file); Nina Moore Tiffany, *Samuel E. Sewall: A Memoir* (Boston: Riverside Press, 1898), 62–66; *Annual Report of the Boston Female Anti-Slavery Society; Being a Concise History of the Cases of the Slave Child, Med, and of the Women Demanded as Slaves of the Supreme Judicial Court of Mass. With All the Other Proceedings of the Society* (Boston: Boston Female Anti-Slavery Society, 1836), (hereafter, BFASS, *Annual Report, 1836*). Charles Greene recalled that only the Boston *Atlas, Mercantile Journal* and the newspaper he edited, the *Morning Post,* had reporters present during the scene. Other reports appeared in the *Daily Advertiser, Daily Advocate, Investigator, Recorder, Daily Centinel and Gazette, Courier, Transcript, Daily Times,* and the *Liberator.* Levy's account relies on the *Transcript,* the *Liberator,* and the *Centinel and Gazette* (which he identifies as the *Columbian Centinel*), and he notes that these accounts relied heavily on the *Mercantile Journal.*

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ordeal facing the two captured women, known to the newspapers and history as Eliza Small and Polly Ann Bates. The journalists interpreted the events through certain conceptions of agency and power, in which two white male actors, Chief Justice Lemuel Shaw and abolitionist lawyer Samuel E. Sewall, were presumed to be the true moving forces, with the slavecatcher, the deputy sheriff, the ship's captain, and his lawyer playing supporting roles. The merchants who owned the ship and supported the slavecatcher went unmentioned. The interventions of others—Samuel H. Adams, the African American man who applied for the writ of habeas corpus; Samuel Snowden, an African American minister who quietly gave advice in the courtroom; the white women abolitionists who accompanied him and Sewall; the African American woman who immobilized the deputy sheriff; and most conspicuously the many African American onlookers, at least some of whom must have been active abolitionists—unsettled many journalists' sense not only of what *should* have happened but also of what *could* have happened. The absent sheriff and the white "gentlemen of property and standing" outside the courtroom come off in most of the accounts as men who could and should have suppressed the disorder, but whose agency was insufficiently or improperly deployed.

George A. Levesque has emphasized the exclusion of African American abolitionists from historical accounts and argued that not only did they participate in abolitionism but that they inspired and indeed directed "the more radical antislavery offensive of the early thirties and forties."[3] Levy's 1952 account relies on few sources and focuses on the white actors—Sewall and especially Shaw—who deployed the law. Because the event becomes notable as the first "riot" by abolitionists in a period rife with riots against them, it appears as if perhaps the abolitionists had caught some sort of interesting behavioral virus. Levy's account demonstrates a difficulty of legal history research: it focuses on organized state power and tends to marginalize those

[3]Levesque, "Black Abolitionists in the Age of Jackson: Catalysts in the Radicalization of American Abolitionism," *Journal of Black Studies,* 1 (1970): 187–201, at 188.

whose agency it dismisses as not dispositive or authoritative. This essay expands the narrative by exploring the actions and views of those Levy disregards, revealing, as well, the continuous, looming reality of violence, both in Boston and elsewhere, and the interconnectedness of port cities from Baltimore to Halifax. Contemporary arguments concerned the legitimacy of collective violence and a tendency to see legal ordering as subordinate to other ends when slavery was the context. This account hints at how purported fugitives from slavery were seized in Massachusetts during the period with or without the deployment of the 1793 federal fugitive slave statute, and how African Americans in Boston worked to prevent their return within or outside legal processes. New Englanders' various attitudes to slavery—including an aversion to mentioning alignments with slaveholding interests—are shadows in the background. The fragmentary records of the lives of Bates and Small are included here too, with my speculations, in the hope that other scholars will recognize them in other records. Through an analysis of the dynamics of this Boston rescue and the responses to it, this article distinguishes the outrage about the supposed insult to the court from the outrage over these women's dramatic escape.

The Backdrop: Collective Violence in Boston

Boston had been wracked by collective and individual violence and displays of force for years before the brig *Chickasaw* arrived from Baltimore on Saturday, July 30, 1836. The records of Boston's municipal court, which heard minor criminal matters, suggest that groups of men were often charged with acting together with sticks, stones and other weapons in the 1820s and 1830s. Street fights took place. A theatre was sacked in the winter of 1825–26.[4] In August 1834, the Ursuline Convent in Charlestown convent was torched while peace officers were notable by their absence, fire trucks were dilatory, the nuns

[4]See "Theatre," *Free Press* (Halifax, NS), January 3, 1826. The record books for Boston's municipal court are held at the Mass. Judicial Archives.

scattered, and the girls present were "freed."[5] Reverend George Cheever was attacked on an Essex street for publishing a temperance tale that took aim at a Unitarian deacon who ran a distillery.[6]

Anti-abolitionist violence proliferated in the United States between 1834 and 1836.[7] Such violence had sometimes been seen as a potentially acceptable form of political action, with mobs accomplishing what magistrates could not. The assumption that "the people" were the final arbiters of the meaning of constitutional rights gave legitimacy, or cover, to these actions. Pauline Maier and Larry Kramer argue that as the nineteenth century progressed, however, the threat that mobs could pose to institutional stability and individual safety looked increasingly dangerous so that such public upheavals came to look illegitimate.[8] This episode must have nudged that process along. It shows Boston's self-appointed respectable class, with its deep ties to slaveholding interests, characterizing its own mob actions as rational and constitutionally legitimate, in contrast to collective action by Black abolitionists and their allies. White actors on both sides elided the agency of Black actors, partly strategically and, in the case of the opponents of abolition, out of a desire to deny African Americans' claims to count as constitutional and civic actors.

Less than a year before the rescue of Bates and Small, the women of the Boston Female Anti-Slavery Association

[5]Roger Lane, *Policing the City: Boston 1822–1885* (Cambridge, MA: Harvard University Press, 1967), 29–30.

[6]"Public Excitement," *Post,* February 11, 1835.

[7]See Leonard L. Richards, *"Gentlemen of Property and Standing": Anti-Abolition Mobs in Jacksonian America* (New York: Oxford University Press, 1970); Paul A. Gilje, *The Road to Mobocracy: Popular Disorder in New York City, 1763–1834* (Chapel Hill: University of North Carolina Press, 1987); Richard B. Kielbowicz, "The Law and Mob Law in Attacks on Antislavery Newspapers, 1833–1860," *Law & History Review* 24 (2006): 559–600.

[8]Pauline Maier, "Popular Uprisings and Civil Authority in Eighteenth-Century America," in *American Law and the Constitutional Order: Historical Perspectives,* edited by Lawrence M. Friedman and Harry N. Scheiber, enlarged edition, 69–84 (Cambridge, MA: Harvard University Press, 1988), 84; Larry D. Kramer, *The People Themselves: Popular Constitutionalism and Judicial Review* (New York, NY: Oxford University Press, 2004), 168.

(BFASS) had been the target of an episode that appalled them and demonstrated how threatening anti-abolitionist forces could be. By August 1835, the feeling against them was intense: the prospect that leading English abolitionist George Thompson would address them motivated fifteen hundred citizens to meet in Faneuil Hall to prepare for confrontation. Prominent lawyers such as Harrison Gray Otis led in denouncing Thompson.[9] In his advocacy of immediate abolition, they saw an intolerable threat to the Union, the South, and northeastern trade.

According to William Lloyd Garrison's account, the BFASS planned to hold an annual meeting on October 14, 1835 at Congress Hall despite some newspapers' declarations that it was inappropriate or actually impossible for women to do such a thing. Holding a meeting was characterized as incompatible with women's place in society and even their inherent natures. When the lessee of Congress Hall withdrew consent, fearing property damage from the possible mob, the BFASS postponed the meeting. Although the postponement was announced in the newspapers, a crowd of "respectable and well-dressed disturbers of the public peace" gathered at the hall, hoping to lay hands on Thompson, who they thought might address the meeting. Being told, erroneously, that the women were at a different hall, the crowd went there and broke up a meeting of the Ladies' Moral Reform Society.[10]

Undeterred, the BFASS announced that the meeting would be held in a different hall a week later by which time Thompson had left town. The mayor and aldermen refused shopkeepers' requests to prevent the meeting. A "seditious and bloody placard," which a contemporary commentator speculated had been printed at the office of the *Commercial Gazette*, offered

[9]See James Freeman Clarke, "The Antislavery Movement in Boston," in *The Memorial History of Boston, Including Suffolk County, Massachusetts, 1630–1880.* vol. 3*: The Revolutionary Period, The Last Hundred Years, Part I,* ed. Justin Winsor (Boston: Ticknor and Company, 1881), 381; Eva Sheppard, "Otis, Harrison Gray," February 2000, American National Biography Online, https://doi-org.ezproxy.lib.ucalgary.ca/10.1093/anb/9780198606697.article.0300368 (accessed December 3, 2020).

[10]William Lloyd Garrison, "Triumph of Mobocracy in Boston," in *Selections from the Writings and Speeches of William Lloyd Garrison* (New York: Negro Universities Press, 1968), 375–76 reprinted from The *Liberator,* November 7, 1835.

a $100 reward for Thompson, so that he could be "taken to the tarkettle before dark." A crowd of hundreds gathered seeking Garrison. As the men began to invade the hall, constables ordered the women to leave the building, which they did, passing through a taunting, hissing crowd to a member's home. A cry then went up to lynch Garrison. Caught escaping out a back window, he was marched without most of his clothing toward City Hall. Eventually the mayor's posse took him in. The mayor gave him clothes, committed him to jail for his protection, ostensibly as a disturber of the peace, and released him the next morning.

Garrison said almost every daily newspaper approved of the mob, one exception being Benjamin Franklin Hallett's *Advocate*. No legal action was taken. According to lawyer Samuel Sewall, who braved the crowd to rescue Garrison and the BFASS women, the instigators were "[t]he merchants connected by business with the South," rather than the poorer, less respectable people who were the usual targets of prosecution and who actually sought to protect Garrison.[11] The newspapers blamed abolitionists for bringing this action on themselves. The *Recorder,* which disapproved of both Garrisonians and collective violence, thought abolitionists were deliberately provoking violence to attract supporters.[12] The crowd of menacing white, merchant-class men assumed they were entitled to punish Thompson and Garrison for their abolitionist views and speech, which endangered the Union and Boston's honor. The mayor and constables recognized the futility and the political consequences of opposing the mob.

A Ship Arrives from Baltimore

The *Chickasaw* left Baltimore on Wednesday, July 20, 1836, "consigned to A.C. Lombard & Co." of Boston.[13] Ammi C.

[11]Tiffany, *Sewall,* 45–52.

[12]"Mr. Garrison's Policy," October 23, 1835 and Untitled editorial, November 13, 1835, *Recorder*.

[13]"Supreme Judicial Court," *Post,* August 2, 1836; Return of Henry Eldridge, *Eldridge* case file.

Lombard, a young merchant, was also a director of a bank and an insurance company in 1835.[14] Ephraim Lombard, Ammi's brother, was part-owner of the ship and a significant participant in what was to come although the newspapers never mentioned him.[15] The Lombards and their associates appear to have resented the abolitionists' interference with their business.

Around the time the ship left, a wealthy Baltimore businessman, state senator, and slaveowner, John B. Morris, discovered that two women he knew as Anna or Ann Patten and Mary Pinckney were missing: they had probably fled on July 19. The records hint at who the women known as Bates and Small were. According to the deposition of the constable Morris hired to find them, they had lived in his house for the previous twenty years. His wife had inherited them from her father, Dr. David Jennifer, and Morris had inherited them on his wife's death.[16] He somehow hypothesized that the *Chickasaw* passengers travelling under the names Eliza, or Ann Eliza, Small and Polly Ann Bates were the missing women. Which woman was thought to have assumed which name is unclear. Often referred to as girls, at least one, described as "mulatto," was probably 30 or 36.[17] The *Atlas,* whose dubious report every other newspaper ignored, claimed that the women had decided to run away when Small's owner advised her against marrying a certain,

[14]*Stimpson's Boston Directory: Containing the Names of the Inhabitants, their Occupations, Places of Business, and Dwelling Houses, and the City Register* . . . (Boston: Charles Stimpson Jr., 1835), 13, 26, 248 (hereafter *Stimpson's 1835 Directory*).

[15]Deposition of Ephraim Lombard, *Eldridge* case file. Ephraim Lombard and Ammi Cutter Lombard, both in their twenties, lived at 22 Hancock. Their parents were Nathaniel and Esther (Cutter) Lombard. Other Lombards also had commercial interests in Boston. See *Stimpson's 1835 Directory,* 248; familysearch.org (accessed November 24, 2020).

[16]Deposition of Matthew Turner, *Eldridge* case file.

[17]On the back of the writ, Huggeford attested that the women called themselves Polly Ann Bates and Ann Eliza Small, but other accounts gave Small's first name simply as Eliza. The *Transcript's* account ("Rescue of Slaves," August 1, 1836) gives a number that appears to be 36, but the *Advocate,* which relies heavily on the *Transcript,* says 30: "Case of Two Women Claimed as Slaves," *Advocate,* August 2, 1836. I refer to them by the names they chose, rather than the names they apparently bore when enslaved, but they may well have taken yet other names after their flight, to stay hidden and reclaim their identities. On names, see Eugene Genovese, *Roll, Jordan, Roll: The World the Slaves Made* (New York: Pantheon Books, 1974), 443–50.

unnamed free African American man on the grounds that he was not sufficiently good-looking. The man, according to the *Atlas,* persuaded the women to run away with him. This account renders the slaveowner a benign, paternalistic presence and the women susceptible to passion, good looks, and ill-advised persuasion. It also, of course, assumes Bates and Small were Patten and Pinckney, a proposition that even abolitionists never flatly denied.[18]

A BFASS annual report describes an interview with one woman (which one is not stated), in Boston's Leverett Street jail before the hearing. The woman said she had indeed been a slave and was never whipped as an adult but had felt her peril and "horror" rising. "Master used to say he never would sell us; but the price of us is rising every day—people got round him making offers. The Georgia houses were near—Master did'nt [*sic*] talk as he used to about never selling us."[19] Morris had faced considerable financial stress in the previous few years. A trustee of the Bank of Maryland, he was sued when it failed in March 1834. In August 1835, frustrated rioters destroyed his house and those of other bankers; earlier in 1836, he claimed redress from the state for failing to ensure civil government.[20] Morris's financial woes may well have led the women to fear that worse was soon to come, and they found an opportunity to escape.

[18]"Outrageous Violation of Justice," *Atlas,* August 2, 1836.

[19]BFASS, *Annual Report, 1836,* 55–57. From the context, the "Georgia houses" may well have been businesses that trafficked in slaves, close to the waterfront. Morris's house, at 15 South Street, was indeed nearby, as was at least one African Methodist church, near Sharp and Pratt Streets. See *Matchett's Baltimore Director* [*sic*]*, Corrected up to September, 1835: for 1835–6* [etc] (Baltimore: R.J. Matchett, 1835), 20, 187 (hereafter, *Matchett's 1835 Directory*); Lucas Fielding Jr., *Plan of the City of Baltimore* (Baltimore, 1836), available at https://www.loc.gov/item/2002624026/ (accessed November 25, 2020). On the history of Baltimore's waterfront, see Scott Shane, "The Secret History of City Slave Trade; Blacks and Whites Alike of Modern-Day Baltimore Have Ignored the Story of the Jails that Played a Key Role in the U.S. Slave Trade of the 1800s," *Baltimore Sun,* June 20, 1999.

[20]See *State of Maryland* v. *President and Directors of the Bank of Maryland, and Ellicott, Morris, and Gill, Trustees,* 6 G. & J. 205 (CA Md., 1834). Commenting on reports arising from the riots and claims for redress, see *American Quarterly Review,* 19, no. 38 (June 1836): 330–43.

The interviewed woman explained that although she had never heard of the abolitionists, she had come north because she imagined that in a free state she would be less likely to fall back into slavery. She had visited a plantation but not lived on one. She belonged to the Methodist church and had left "friends" (a term that covered relatives as well) when she left. The BFASS account stresses this woman's upright moral sense and "ardent piety" but unfortunately, while leaving the impression that she might have been free when she boarded the *Chickasaw,* it says nothing else about her life or background, possibly in order to avoid providing any details that might be used to justify returning her to Baltimore if she were ever caught again.

The accounts are vague about how Morris learned of the women's flight, as if perhaps others told him, but this wording may reflect caution about the legal risks in misstatements.[21] On Friday, July 22, Morris legally appointed the Baltimore constable Matthew Turner to claim them. Turner arrived in Boston two days later. On Saturday, July 30, the *Chickasaw* arrived at the Boston wharf. Before it was properly moored, it was met by someone representing the Lombards, who had learned of the escape from their Baltimore correspondents John Clark and Aurusa Kellogg, who had presumably been contacted by Morris. The captain, Henry Eldridge, was told to detain the women. Presenting orders from one of the ship owners (apparently Ephraim Lombard), Turner then went aboard and met them.[22]

Turner deposed that he identified the women "from their appearance & the description given of them by . . . Morris." He

[21]A few years earlier, Garrison and Benjamin Lundy were both prosecuted and sued in Maryland for criminal libel for accusing a Newburyport, MA ship owner, Francis Todd, and his "yankee captain," Nicholas Brown, of making extra profits on their voyages from Baltimore to New Orleans by transporting slaves. See *A Brief Sketch of the Trial of William Lloyd Garrison, for an Alleged Libel on Francis Todd, of Newburyport, Mass.* (Boston: Garrison and Knapp, 1834). Even though slavery was legal, the lessons were, first, that it was actionable to accuse someone of being cognizant of such inhumanity as confining more than 75 people below deck, and, second, that those in the business might turn to law over slights to their reputations as humane men.

[22]Deposition of Ephraim Lombard, *Matchett's 1835 Directory,* 48, 143.

also deposed—in language some newspapers repeated—that they "did freely admit" that they were the women he sought. The woman interviewed by the BFASS representatives said Turner initially pretended to be William Wilson, a name she recognized as that of a white Methodist minister in Maryland whom she had never seen. They had some kind of conversation about the conditions that inspired the women to want to escape, and Turner apparently tried to console them by pointing out that life was short and asserting that they had what they needed.[23] The interviewed woman said she had free papers, which she claimed Turner took and destroyed. The *Transcript*, in a fairly neutral account, and Benjamin Franklin Hallett's *Advocate*, which was sympathetic to the abolitionists, said both women had free papers.[24] No one explained why Morris would have sent Turner after free women. The *Post* said the women had "false 'passes.'"[25] Other newspapers said nothing on this point.[26] Bates and Small were probably the women Morris lost,

[23]Identifying the impersonated minister as James Wilson, the *Liberator* said Turner read passages of the Bible to console the women: "A Kidnapper's Honesty and Kindness," August 13, 1836. See also "A Slave Case," *Mercantile Journal,* August 1, 1836; "Supreme Judicial Court," *Post,* August 2, 1836; "Boston. Tuesday Morning, August 2, 1836," *Advertiser,* August 2, 1836; "Supreme Judicial Court," *Centinel and Gazette,* August 2, 1836; BFASS, *Annual Report, 1836,* 48, 54–55.

[24]"Rescue of Slaves," *Transcript,* August 1, 1836; "Case of Two Women Claimed as Slaves," *Advocate,* August 2, 1836; BFASS, *Annual Report, 1836,* 55. Hallett's commitments fluctuated. He was an Anti-Mason while that movement was popular and dabbled with Garrisonian abolitionism, temperance, anti-Catholicism and Whiggery before becoming a Democrat. See "Hallett, Benjamin." In *Appleton's Cyclopedia of American Biography,* ed. James Grant Wilson & John Fiske (New York, D. Appleton & Company, 1888), 3:51. Hallett's account, though not impartial, provides helpful clues to the operation of the legal regime, which, he appears at points to have understood better than many other editors did. The *Post,* edited by the astute but vehemently anti-abolitionist non-lawyer Charles Greene, thought Sewall was the source of the "apologetic misrepresentations" in the *Transcript* and *Times* and claimed that another journal had rejected his account: Untitled editorial, *Post,* August 3, 1836. The *Transcript,* indeed, admitted the difficulty of producing a reliable report but concluded that the events amounted to an unintentional breach of decorum rather a deliberate plot to subvert legal process: "The Slave Case," *Transcript,* August 2, 1836.

[25]"Supreme Judicial Court," *Post,* August 2, 1836.

[26]The papers may have been borrowed or authentic but expired. Frederick Douglass, who escaped from Maryland around the same time, said Maryland required free papers to be renewed regularly, and he remarked on the risks run by those who lent their own free papers to help others escape: *Life and Times of Frederick Douglass,*

but the point was never proved: Turner lacked evidence, and the women and their supporters avoided giving it to him.

Turner and Lombard appear to believe Turner faced a two-step judicial process before he could legally remove the women from Massachusetts: step one was a federal warrant to authorize him to take Bates and Small before a court where, in step two, he would apply for a certificate authorizing their removal under the federal Fugitive Slave Act. Section 3 of that Act authorized the slaveowner or "his agent or attorney" to "seize or arrest" the fugitive and proceed to either a judge of the circuit or district court in the state or to "any magistrate of a county, city or town corporate, wherein such seizure or arrest shall be made." In court, the slaveowner, agent or attorney would prove ownership and then be granted a certificate to authorize the removal and return of the fugitive.[27] The process that Turner and Lombard understood themselves to face in Boston had particular local twists.

Turner and probably Eldridge disembarked, and the ship pulled back from the wharf and went out to anchor in the stream about four miles from Boston.[28] Before the ship left, though, some African American men on the wharf caught wind of the women's captivity. According to the BFASS annual report, they, not being allowed aboard, rowed around the ship and saw two women signalling distress from a cabin window. An African American man was also signalling, and they assumed he was also a captive, but he turned out to be the sole Black crew member.[29]

Written by Himself [etc.] (Chapel Hill, NC: University of North Carolina at Chapel Hill, 2001), 245–46.

[27]"Rescue of Slaves," *Transcript,* August 1, 1836; "Rescue of Slaves," *Liberator,* August 6, 1836; "Case of Two Women Claimed as Slaves," *Advocate,* August 2, 1836; An Act Respecting Fugitives from Justice, and Persons Escaping from the Service of Their Masters, 1 Stat. 302 (1793) ["Fugitive Slave Act"].

[28]BFASS, *Annual Report 1836,* 48–49; "Sheriff Huggeford's Statement," *Transcript,* August 13, 1836. Eldridge may have rowed back instead, but hopping off would have been easier.

[29]Return of Henry Eldridge and Writ of Habeas Corpus, in *Eldridge* case file; "Supreme Judicial Court," *Post,* August 2, 1836; "Boston. Tuesday Morning, August 2, 1836," *Advertiser,* August 2, 1836; "Supreme Judicial Court," *Centinel and Gazette,* August 2, 1836; BFASS, *Annual Report, 1836,* 48; Tiffany, *Sewall,* 62. The crewman's

Most newspapers suspected that white abolitionists had concocted a "concerted plan to prevent Mr. Morris from retaking his property."[30] The habeas corpus application mentioned a "colored man" aboard the ship—evidently the crew member—which, perhaps read alongside the *Atlas*'s fanciful tale of romance, aroused suspicion that abolitionists also expected a "free mulatto man."[31] The case file belies this suspicion and suggests instead that it was African Americans' efficient mobilization that led to the women's escape. Neither Turner nor Lombard deposed that Morris sought a man—just the two women. The application for habeas corpus suggests instead that four African American men hurriedly assessed the situation on the wharf and rushed to Sewall. There is no sign anyone but the Lombards was expecting fugitives. Interlineations, crossed out bits, and small, squeezed-in words abound. The application was first going to be sworn by Reverend Samuel Snowden, but his name is crossed out and replaced by Adam Oswell. Oswell was going to swear that two unknown colored "persons" appeared to be Eldridge's captives on the *Chickasaw*. Oswell's allegations were set out and signed by Sewall as justice of the peace, but then—one imagines Samuel H. Adams running in breathless—the petition continues, with a line through Sewall's signature and a new paragraph adding more information. The petitioner becomes Adams, who in 1835 ran a boarding house near the waterfront on Ann Street.[32] Adams swore that he had several times attempted to board the ship but been rebuffed—and "that Samuel Cole another colored man" had

name is hard to read but looks like Caleb B. Lober, whose name appears neither in *Stimpson's 1835 Directory* for Boston nor in *Matchett's 1835 Directory* for Baltimore, but no one is identified as Black in the latter.

[30]"Outrageous Violation of Justice," *Atlas,* August 2, 1836.

[31]"Supreme Judicial Court," *Post,* August 2, 1836.

[32]*Stimpson's 1835 Directory,* 390. Ann (now North) Street runs from near Faneuil Hall into the North End. It ran mostly parallel to the waterfront, about two blocks from it. It was drawing police attention by the 1820s. See Edward H. Savage, *Police Records and Recollections; Or, Boston by Daylight and Gaslight for Two Hundred and Forty Years* (Boston: John P. Dale & Company, 1873), 63, 64. Over his career, Sewall assisted many kidnapped, imprisoned, and maltreated free African Americans: Tiffany, *Sewall,* 58.

also tried—and that when he, Adams, was trying to board he saw one of the women and the African American man, "who were immediately ordered down below by the master."[33] Adams swore that he had been informed and truly believed that Eldridge "and others" intended to put the three on a Baltimore-bound vessel that day and thus evade legal proceedings. Evidently after Adams's intervention, the phrase "two colored persons" was turned into "two colored women" in the first part of the petition, and the purportedly enslaved African American man was added by interlineations. The whole document appears to have been written by Sewall, who witnessed it. Adams signed with an X. They rushed the document to Shaw. Someone else wrote out the necessary order to the Massachusetts sheriffs to bring the three "imprisoned and restrained" persons before a judge and to summon Eldridge, and Shaw signed it.

Habeas corpus proceedings required Eldridge to swear a "return" justifying the detention and deliver his three captives to the court or explain who now had custody of them.[34] Shaw made the order some time between noon and one o'clock, and it was returnable at half past three. The Supreme Judicial Court was not in session; this was an emergency application.

Accounts suggest that the ship's mate resisted letting Sewall and his companion, Deputy Sheriff Henry H. Huggeford, board the ship and take Bates and Small while Eldridge was gone. Huggeford, however, explained his authority and read the writ. The *Transcript* said the women were deeply alarmed when Sewall and Huggeford entered the cabin, but that upon being told their intentions one of them "burst into tears, saying that she knew God would not forsake her and leave her to be sent back to the South."[35] The four then headed for the courthouse. When they arrived, however—around half past three,

[33]*Stimpson's 1835 Directory* describes Cole as "boarding" at 157 Ann, near Adams's boarding house.

[34]Of the Writ of Habeas Corpus, Revised Statutes of Massachusetts 1836, c. 111, §§ 5, 13, & 14 (hereafter R.S. Mass. 1836).

[35]"Rescue of Slaves," *Transcript,* August 1, 1836.

although Huggeford's account places it earlier—Shaw was "absent from town," and someone was sent to find Justice Samuel Wilde instead. While they waited, Huggeford, who did not feel he could leave Small and Bates unattended while he summoned Eldridge, sent a message to the sheriff, Charles Pinckney Sumner, who joined the waiting group. Huggeford went off and found Eldridge waiting for him in his office.[36] Perhaps bystanders on the wharf had told Eldridge who had taken the women. Wilde arrived around four o'clock but declined to address the application. "[D]oubting whether, under the statute, he was authorized to hear and determine a question arising on a writ returnable before another Judge," he postponed the case until Monday morning so Shaw could hear it. Wilde refused to commit the women to jail or make any order at all.[37]

Wilde's approach to the case is hard to interpret. The governing statute provided that when a writ of habeas corpus was returned, the court or judge was to examine the cause of detention without delay, but the matter could be adjourned as required.[38] The statute did not explicitly state that, out of term, the judge who issued the writ had to hear the cause, but the standard form set out in the statute did order the sheriff or deputy to return the prisoner and captor to that specific judge.[39] However, evidently intending to leave, Shaw added an interlineation to his order authorizing the sheriffs to bring the matter before another justice of the court. Wilde may have been genuinely uncertain about the validity of Shaw's directive or reluctant to be involved.

Huggeford had to decide what do with Small and Bates. The statute gave him three days to bring them to court and contemplated transferring custody.[40] Huggeford was uneasy about

[36]"Sheriff Huggeford's Statement," *Transcript,* August 13, 1836.

[37]"Boston. Tuesday Morning, August 2, 1836," *Advertiser,* August 2, 1836; "Sheriff Sumner's Statement," *Transcript,* August 3, 1836.

[38]R.S. Mass. 1836, c. 111, §§ 4, 5, 18.

[39]Also setting out this procedure, see Edward Livingston, *A System of Penal Law for the United States of America: Consisting of a Code of Crimes and Punishment* (Washington, 1828), 21 of the Code of Procedure section.

[40]R.S. Mass. 1836, c. 111, §§13–21. See also Isaac Goodwin, *New England Sheriff: Or, Digests of the Duties of Civil Officers* [etc.] (Worcester, MA: Dorr and Howland; 1830), 133–35, 203, 293.

"committing the women for safe keeping" without legal authority, but Sumner did so on his own responsibility.[41] The *Advocate* insisted, wrongly, that throughout the events, the women were in Eldridge's custody, not the court's. Sumner viewed them as being in "Capt. Eldridge's detention" but in the charge of Huggeford and, at points, himself. They passed the writ back and forth and made notes on it as they transferred responsibility for Bates and Small.[42]

Sheriff Sumner took Bates and Small to the Leverett Street jail, where they were "ministered unto by a few who had not forgotten to 'maintain the cause of the innocent,' nor shrunk from the visitation of prisoners"—the women of the BFASS.[43] On Sunday, Sumner checked with Huggeford to see if he would take charge of the women again for the proceedings on Monday morning and Huggeford agreed.[44] At this point it was uncertain when and where on Monday Shaw would hear the case. Sumner and Huggeford agreed to suggest to Shaw that he hear the case either in the Leverett Street courthouse or at the jailer's office, as either would be more convenient with, as Huggeford put it, "less annoyance and risk . . . from the excitement [the] case might occasion, should there be a crowd assembled."[45] Sumner was cautious but did not anticipate any trouble. Not finding Shaw at home, Huggeford found Wilde, who had been in touch with Shaw, and told Wilde when and where the hearing would take place. Shaw also did not anticipate trouble and decided to hear the case in the "Supreme Court Room," evidently his usual preserve. Huggeford returned to Sumner and reported what had occurred. Sumner offered to retain custody of the writ and Bates and Small, but Huggeford said he would take over again, so Sumner passed them back to him.

[41]"Sheriff Huggeford's Statement," *Transcript,* August 13, 1836.

[42]C.P. Sumner, "Mr. Sheriff Sumner's Statement," *Transcript,* August 3, 1836. Rollin C. Hurd, *A Treatise on the Right of Personal Liberty and on the Writ of Habeas Corpus,* 2nd edition (pub. 1876 rept. New York: Da Capo Press, 1972), 319–20 explains that once the writ is issued, the person is detained under it, regardless of the original grounds for the detention.

[43]BFASS, *Annual Report, 1836,* 49.

[44]"Sheriff Huggeford's Statement," *Transcript,* August 13, 1836.

[45]The *Mercantile Journal* noted that such proceedings could even be held at the judge's residence: "The Slave Case," August 3, 1836.

About eight-thirty in the morning of Monday, August 1, 1836, Huggeford and Deputy Sheriff W. Freeman arrived at the jail by carriage and met Sumner. With Small and Bates, they carried on to the courthouse on the southern side of Court Square. Court Square (bigger then than it is now) lay between Court Street on the north and School Street on the south. Common Street lay to the west.[46] Huggeford brought Bates and Small into court about nine o'clock and seated them in the jury seats on one side of the judge. Sumner stayed until Shaw arrived and then left to perform his regular duties in Judge Peter O. Thacher's municipal court in the courthouse across the square where a grand jury was being empanelled.[47] Sumner's absence did not leave Shaw's courtroom unprotected, as Huggeford had the authority "to raise a force to preserve the peace, or to apprehend a criminal." Sumner later explained that Huggeford was the only officer expected to appear in these habeas corpus proceedings as he had the writ, "and his were its responsibility and pay, if any." Neither officer anticipated difficulty. Sumner said he had expected Shaw to release the women from Eldridge's detention "*under this writ*" (Sumner's emphasis) and that all would wait patiently for the discharge.[48]

Sewall sat at one counsel table. A lawyer named Fiske, likely Augustus H., acted for Eldridge.[49] Huggeford and a constable named Trescott sat at desks some distance from Bates, Small, Shaw, and the lawyers. Another constable, Elisha Glover, was also around.[50] Filling the courtroom were two or three hundred

[46]See *Plan of the City of Boston* (Boston: Charles Stimpson, 1829).

[47]"The New Court House," *Mercantile Journal,* August 16, 1836. This account reveals that the municipal court was operating in the newly (or partially) constructed courthouse on the north side of the square in 1836, rather than 1837, as some historians of Boston have claimed.

[48]"Mr. Sheriff Sumner's Statement," *Transcript,* August 3, 1836; "Boston. Tuesday Morning, August 2, 1836," *Advertiser,* August 2, 1836; "Abolitionism Exemplified," *Centinel and Gazette,* August 2, 1836.

[49]Augustus H. Fiske was a director of Boston's North Bank and a "counsellor" with an office at 5 Court Street: *Stimpson's 1835 Directory,* 18, 167, 306. He is likely the Fiske who appeared as counsel in Boston-area commercial cases in the 1830s. See for example, *Commercial Bank* v. *Cunningham,* 41 Mass. 270 (1833).

[50]"Outrageous Violation of Justice," *Atlas,* August 2, 1836; *Stimpson's 1835 Directory,* 181. Ebenezer Trescott is listed as one of Boston's twenty-two constables in *Stimpson's 1835 Directory* (12).

spectators, mainly African Americans. The newspapers generally depicted them as an undifferentiated mass characterized by emotions (especially "excitement"), rather than as people with thoughts, but in the few minutes before Sumner left, Huggeford perceived "not the slightest indication of confusion, but on the contrary, every person observed perfect order and decorum."[51] Eight or twelve white abolitionists were also present, about half of whom were women.

Fiske read into court Eldridge's sworn return to the writ, which explained the grounds for detention. Relying on section three of the 1793 Fugitive Slave Act and the US Constitution, Fiske then introduced into evidence Turner's supporting deposition declaring that the women belonged to Baltimore's John Morris.[52] The same notation—"sworn to in Court"—that appears on the statements of Eldridge and Turner also appears on the deposition of someone whose presence went unmentioned in every single account of these proceedings: Ephraim Lombard, who explained how tidings from Baltimore reached the *Chickasaw*. In response, Sewall argued, to quickly silenced applause, that the Massachusetts Bill of Rights established that all were born free and entitled to their liberties.[53]

Fiske proposed postponing the case so he could gather more evidence of ownership from Baltimore. Sewall appears to have argued that there was insufficient evidence that the women before Shaw were the women Morris had lost. A note from Samuel Snowden to Sewall, found on his table after the courthouse had emptied, pointed out that Turner, not actually knowing the two women, might take free persons as slaves. The report of the BFASS also alluded to the possibility that Bates and Small were free.[54] The evidence of identity was probably slim since Turner likely did not know Morris's fugitives, only

[51]"Sheriff Huggeford's Statement," *Transcript,* August 13, 1836.

[52]In the urgency of these proceedings, the two depositions and Eldridge's return appear to have been sworn out in court, even though they are the type of documents that one would expect would have been sworn in advance.

[53]BFASS, *Annual Report, 1836,* 51; "Supreme Judicial Court," *Centinel and Gazette,* August 2, 1836; "Rescue of Slaves," *Liberator,* August 6, 1836.

[54]BFASS, *Annual Report, 1836,* 50.

that they were expected on the *Chickasaw*. Snowden may have been urging Sewall to ask Shaw to establish a precedent for demanding better evidence of identity.

Turner evidently believed he needed a federal warrant in order to take the women before a court to apply for a certificate under the Fugitive Slave Act. The *Advocate* stated that Shaw told Turner that if he had wanted a warrant, he "should have gone to Cambridge for it, or applied to any magistrate" rather than detaining the women while obtaining legal process.[55] An uninvolved but attentive onlooker, referred to as C.W. (likely an associate of the Lombards), said that Turner asked Eldridge to detain the women because Turner could not find a magistrate to give him a warrant, "Judge Davis being away, and Judge Story being three miles off, at Cambridge."[56] Turner's belief that he needed a federal warrant and the rescue's occurrence as he was asking about obtaining one "from some other court" suggest procedural difficulties in using the Fugitive Slave Act in Boston. By law, Turner should have been able to take Bates and Small without a warrant when the ship first arrived at the wharf. In *Commonwealth* v. *Griffith* Massachusetts Chief Justice Isaac Parker ruled in 1823, writing for himself and Samuel Wilde, that warrants were unnecessary for apprehending fugitive slaves since enslaved people were "not parties to the constitution."[57] However, Parker's reasoning was problematic, and slavecatchers may well have obtained warrants anyway. Justice George Thacher dissented strongly, siding with Attorney General Marcus Morton and two other lawyers, one of them Theophilus Parsons Jr., the son of the highly-regarded former

[55]"Case of Two Women Claimed as Slaves," *Advocate,* August 2, 1836.

[56]C.W., letter to the editor, *Mercantile Journal,* August 3, 1836. Charles O. Whitmore and Israel Lombard were merchants and partners. Israel was likely a cousin of Ammi C. Lombard. John Davis was the district judge in Boston. See *Stimpson's 1835 Directory,* 2, 377. Joseph Story sat as circuit justice for the federal District of Massachusetts.

[57]*Comm.* v. *Griffith,* 2 Pick. 11, 19 Mass. 11 (1823). In a lengthy passage, the *Post* set out Parker's reasoning and its applicability to this case: "The Slave Rescue Again," *Post,* August 5, 1836. Less than three weeks in the future lay Shaw's judgment in *Comm.* v. *Aves,* 35 Mass. 193 (1836), in which he distinguished between escaped slaves, whose owners' interests required constitutional respect, and the rights of slaves whose owners voluntarily brought them into a free state.

chief justice. Thacher asserted that as Massachusetts did not recognize slavery, everyone in Massachusetts was free and entitled to be secure against search and seizure in the absence of a warrant based on a complaint under oath. Although warrants for those suspected of actual crimes led to jury trials, the procedural protections were much weaker in cases about fugitives. Garrison's *Liberator* energetically warned its readers that free African Americans were vulnerable to being captured and enslaved,[58] and many in Massachusetts undoubtedly saw pro-slavery federal statutes as illegitimate while accepting their obligations under state law.

Matthew Turner and Ephraim Lombard may not have known they did not need a warrant. In *Prigg* v. *Pennsylvania* six years later, United States Chief Justice Roger B. Taney assumed a warrant was necessary.[59] Of course, even if Turner had known, there would have been practical difficulties. As he approached the *Chickasaw* in the midst of an attentive African American crowd, he could well have decided that attempting to seize the alleged fugitives would be ill-advised. A warrant offered legal protection and grounds for prosecuting anyone who interfered with its exercise, and interference was likely. All the accounts indicate, though, that Turner believed he needed a warrant from a federal judge, an assumption the newspapers found unremarkable.[60] The problem likely was not that the women were on a ship since the *Chickasaw* could readily be moved to accommodate any concerns about state jurisdiction,

[58]See for example, David Ruggles, letter to the editor, *Liberator,* August 6, 1836. On the debates over procedure from 1793 to 1842, see Don E. Fehrenbacher, *The Slaveholding Republic: An Account of the United States Government's Relations to Slavery* (Oxford, UK: Oxford University Press, 2001), 212–19 and, generally, Thomas Dean Morris, "The Personal Liberty Laws, 1780–1861: Constitutional and Legal Aspects" (PhD diss., University of Washington, 1969). Departing from some common-law rulings, Massachusetts allowed the party detained to disprove (in a summary way) the assertions in the return. See R.S. Mass. 1836, c. 111, § 2; Hurd, *Treatise on the Right of Personal Liberty,* 271–88.

[59]*Prigg* v. *Pennsylvania,* 41 U.S. 539, 630–31 (1842).

[60]Hallett, the *Advocate's* lawyer-editor, said Shaw told Turner he could have applied to a federal judge or "any magistrate," but Hallett was not scrupulously accurate and could easily just have been putting the statutory words in Shaw's mouth. In any case, just because one could apply to a state magistrate, it does not follow that the application would be granted: "Case of Two Women Claimed as Slaves," *Advocate,* August 2, 1836.

and Small and Bates wanted to disembark and escape. Moreover, even with the women seated in the Boston courtroom, when Turner asked about the procedure for obtaining a warrant, he evidently did not expect Shaw to issue one. Sumner, likewise, expected that the women would leave the courtroom free.

This incident casts light on the later disagreement between Taney and Justice Joseph Story, from Maryland and Massachusetts respectively, in *Prigg* v. *Pennsylvania*. Taney, while agreeing with Story that Pennsylvania legislation impeding the return of fugitives was unconstitutional, vehemently disagreed with Story's view that states could not be compelled to require their functionaries to support the return of fugitive slaves. According to Story, the task of creating the mechanisms to return fugitives lay wholly with the federal government. Taney protested that if state officers were not required to protect slaveowners' rights, the 1793 statute would in many states leave them with no remedy because slavecatchers needed a state warrant to make the initial capture.[61]

Massachusetts law did contemplate the issuance of warrants for those sought through extradition proceedings as fugitives from criminal justice under section one of the 1793 statute, but it did not authorize warrants for fugitive slaves.[62] Given this lack of statutory authorization under state law and sound, practical reasons for not proceeding without a warrant, it makes sense that, despite *Griffith*, obtaining a warrant from a federal judge was normal practice in Massachusetts.[63] Joseph Story, an opponent of slavery (but also of Garrisonians) and the

[61]*Prigg*, 615–16, 630–31. For a discussion of the involvement of state courts in the preliminary stages of federal prosecutions, beginning in 1789, see Charles A. Lindquist, "The Origin and Development of the United States Commissioner System," *American Journal of Legal History* 14 (1970): 1–16.

[62]R.S. Mass. 1836, Pt. IV., c. 142, §§ 6–9. An 1836 Massachusetts sheriffs' guide cautioned against proceeding without a warrant, even for felonies: Isaac Goodwin, *New England Sheriff: Or, Digests of the Duties of Civil Officers* . . . (Worcester, MA: Dorr and Howland, 1830), 152–53.

[63]Several years later, An Act Further to Protect Personal Property, Stat. Mass. 1843, c. 69 barred state judges, magistrates and officers from participating in such proceedings.

encroachment of Southern power, was the only available judge from whom Turner could have sought a warrant in 1836, and six years later, in *Prigg*, he declared, in effect, that a slave-catcher's lack of other options was just fine.[64] No wonder Taney was practically apoplectic.

Warrant or no warrant, Turner's problem, in any case, was that the Fugitive Slave Act did not authorize Eldridge to detain the women on the ship. The statute authorized either the slaveowner or the slaveowner's agent to seize fugitive slaves and bring them to court. Some of the newspapers were vague about the difficulty: they basically reasoned that since the women were obviously Morris's slaves, anyone, or at least anyone coordinating with Turner, could detain them to facilitate their return. However, the statute did not contemplate the agent appointing a sub-agent: as the BFASS report put it, "Has the Captain of the brig Chickasaw a right to convert his vessel into a prison?"[65] Arguments about the legitimacy of Turner's claim were irrelevant if Eldridge lacked this authority.

The Escape

Not long after the case began, while Shaw was reviewing some papers, some "movements among the blacks" caught Huggeford's attention and suddenly made him apprehensive. He looked for the constables but could not find them. Stepping to the door, he encountered Mr. Cole, the assistant clerk of Common Pleas, and sent a message through him to Sumner to come as soon as possible and bring as many police officers as he could. Huggeford returned to his desk. However, while

[64]On Story's treatment of slavery, see R. Kent Newmyer, *Supreme Court Justice Joseph Story: Statesman of the Old Republic* (Chapel Hill, NC: University of North Carolina Press, 1985) 344–78. The proceedings that faced a captured fugitive changed between 1823 and 1836. In 1823, when Parker decided *Griffith,* the writ de homine replegiando was available, which, unlike habeas corpus, let a jury determine the validity of the detention. In 1835, however, just months after Bostonians held a mass meeting to apologize to Southerners for abolitionists, the state abolished the writ de homine replegiando. In 1836, no jury could help a fugitive. In 1837 Massachusetts restored the writ, making it addressable to a sheriff, deputy sheriff, or coroner. On these changes, see Morris, "Personal Liberty Laws, 1780–1861," 179, 203–13.

[65]"Rescue of Slaves," *Transcript,* August 1, 1836; BFASS, *Annual Report, 1836,* 51.

Shaw was speaking and it was becoming apparent that he would release Bates and Small, a quick exchange took place between Fiske and Turner. An alert Quaker abolitionist in the courtroom, undoubtedly Thankful Southwick, realized from previous experience that at the point that fugitives were discharged, slave hunters would often make up some new charge to initiate, such as theft. She beckoned to someone sitting by the prisoners, likely the African American minister Reverend Samuel Snowden, who came over.[66] She quickly told him to tell the prisoners "to wait for nothing after they should be discharged." Indeed, the back of a note from Snowden to Sewall later found on Sewall's desk spoke of a rumour that the owner had gone "to get a writ to take them as thieves." Southwick's messenger returned to his seat and conveyed the message while all waited for Shaw to finish.[67]

Finally, less than twenty minutes after Huggeford sent for Sumner, Shaw announced that Eldridge lacked the jurisdiction to detain the women on his ship and observed that they must be discharged. At this point the accounts become confused. Turner, noisily interrupting, indicated that he intended to arrest the women as soon as they were released and asked if he needed a warrant. Sewall, probably just as Turner interrupted and not realizing that Shaw had more to say, went to Bates and Small and told them that they had been discharged and could go—he wanted to get them away from Turner. Turner attempted to take command, ordering the crowd to take their seats and disobeying Shaw's repeated orders to be silent.[68]

[66]Snowden, an abolitionist and former slave, was the minister of the Methodist Episcopal Church in Boston, founded in 1818. In 1835 he lived at 5 Belknap Street, in the area on the north side of Beacon Hill then known as "Negro Hill." See George A. Levesque, "Inherent Reformers—Inherited Orthodoxy: Black Baptists in Boston, 1800–1873," *Jour. Negro Hist.* 60, (1975): 491–525, at 502; BFASS, *Annual Report, 1836,* 21; *Proceedings of the Fourth New-England Anti-Slavery Convention, Held in Boston, May 30, 31, and June 1 and 2, 1837* (Boston: Isaac Knapp, 1837), 66–69, 108; *Stimpson's 1835 Directory,* 394.

[67]BFASS, *Annual Report, 1836,* 51–52; "Supreme Judicial Court," *Post,* August 2, 1836; James M. Caller and M.A. Ober, *Genealogy of the Descendants of Lawrence and Cassandra Southwick of Salem, Mass.* (Salem, MA: J.H. Choate & Co., 1881), 262.

[68]"Rescue of Slaves," *Liberator,* August 6, 1836; C.W., letter to the editor, *Mercantile Journal,* August 3, 1836; Sewall to Comfort E. Winslow, August 1, 1836, in Tiffany, *Sewall,* 63; S.E. Sewall, letters to the editor of *Atlas* and *Times,* August 5, 1836.

Shaw turned to Fiske, apparently to explain Turner's options. A constable or the court's messenger was ordered by someone—it could have been Turner—to lock the door that led down to the street level and moved to do so. According to Sewall, when Turner began to ask about a warrant, "all the colored people rushed to the door with the women, thinking probably that they were actually discharged and no time was to be lost." Shaw, however, had not actually discharged the women but had simply finished explaining his reasoning and then stopped talking when Turner interrupted him; even Sewall did not realize Shaw had not finished. The *Centinel,* which had a reporter on site, claimed someone sitting near Bates and Small "cried 'now go'": "'go—go' was the cry, and men and women rushed from the opening allotted to spectators, over the benches, and crowded through the private passages where the girls had just passed, within a foot of the judge's desk." When Turner realized the women were gone, Southwick said "very calmly, 'Thy prey hath escaped thee.'"[69]

Shaw's verbal and physical efforts to stem the human tide were ignored. Deputy Sheriff Huggeford was overpowered by "[a]n old colored woman, of great size," who seized him by the neck; he suffered "severe personal violence" and had his coat torn off. Bates and Small were hurried down the stairs. One collapsed, and "[a] huge negro woman" (the same one?) carried her down the stairs. The women were spirited away in a waiting carriage, up School Street, down Beacon Street, over the mill dam on Western Avenue, and, apparently, out of Boston. According to the *Mercantile Journal,* someone threw the toll out the window as they flew by.[70]

[69]Sewall to Comfort E. Winslow, August 1, 1836, in Tiffany, *Sewall,* 63; S.E. Sewall, letters to the editors of *Atlas* and *Times,* August 5, 1836; "Supreme Judicial Court," *Centinel and Gazette,* August 2, 1836; Caller and Ober, *Genealogy of the Descendants of Lawrence and Cassandra Southwick,* 262–63.

[70]Sewall to Comfort E. Winslow, August 1, 1836, in Tiffany, *Sewall,* 64; "Boston. Tuesday Morning," *Advertiser,* August 2, 1836; "Supreme Judicial Court," *Post,* August 2, 1836; "The Slave Case," *Mercantile Journal,* August 2, 1836. The *Atlas,* which had a writer on the scene but perhaps preferred not to emasculate Huggeford in print, assigned him two assailants and did not mention that they were women: "Outrageous Violation of Justice," *Atlas,* August 2, 1836.

Huggeford sprinted to the other courthouse to find the officers attending the municipal court. He and Sumner seem to have missed each other in the crowded square. Sumner said he returned to Shaw's court as soon as he heard what had happened, taking with him the only two constables he could quickly procure, but the "multitude had gone" when they arrived. Huggeford returned to find Sumner surprisingly calm and resigned to the situation. Huggeford went upstairs to ask Shaw if the women were discharged, and Shaw said they had not been and were in the custody of the "Sheriff or Officer, and . . . must be brought back." Huggeford, another deputy sheriff named Freeman, and "a dozen respectable gentlemen" formed a posse, found carriages and went off in pursuit, perhaps half a mile behind Bates and Small.[71]

A significant number of African Americans remained in the courthouse and expressed regret about the disorder. The white women abolitionists and Turner also stayed until Shaw left. Probably with BFASS secretary Maria Chapman at her side, Thankful Southwick reproved Turner, motivated by the "sense of the duty of rebuke, which every inhabitant of the free States owes to every slaveholder." Two young men spoke insolently to him. Turner protested that he was a Methodist and belonged to the Colonization Society. Sewall called him a rascal, which the *Post* considered disgraceful for a lawyer as Turner was simply upholding the slaveowner's constitutional rights.[72]

The Massachusetts Anti-Slavery Society had scheduled a celebration in Congress Hall early that afternoon to mark the second anniversary of British emancipation. The arriving members found the doors locked, however, because the hall's proprietor feared violence from the gathering crowd of five hundred or so, some abolitionists, some "respectable citizens,"

[71]"Sheriff Huggeford's Statement," *Transcript,* August 13, 1836; "Supreme Judicial Court," *Post,* August 2, 1836; "The Slave Case," *Centinel and Gazette,* August 3, 1836.

[72]C.W., letter to the editor, *Mercantile Journal,* August 3, 1836; BFASS, *Annual Report 1836,* 23–25, 53–54; "Supreme Judicial Court," *Post,* August 2, 1836; Untitled editorial, *Post,* August 3, 1836; "Outrageous Falsehoods of the Post," *Times,* August 4, 1836. The *Times* urged Chapman and her husband to sue the *Post* for asserting that Maria—who was not a Quaker—had been so indelicate as to reproach Turner.

some "southerners," and many "ragged, saucy boys." While the *Courier, Post* and *Times* acknowledged the risk of danger and destruction, the *Advocate*'s writer thought the proprietor had overreacted. The *Times* wondered where the mayor and peace officers were, observing that "[t]hey must have been very busy neglecting their duty somewhere." The society continued its celebrations elsewhere.[73]

Where did Bates and Small go? The accounts reveal shadows of an elaborate plan in which the white participants played only small parts—indeed, they uniformly disavowed any participation.[74] William C. Nell later recalled that the escape was mainly accomplished "through the prowess of a few colored women; the memory of which deed is sacredly cherished and transmitted to posterity."[75] The *Courier,* which attributed substantially more agency, or blame, to the African American actors than the other papers, alleged that no one believed the rescue had happened under a mistake, as "it was boasted of two hours before the affair took place, that whatever the decision might be, the slaves would be rescued by the blacks and would not be allowed to go to jail." The *Courier* noted that the carriage "stood ready, with the door open, and a black driver." African American women bestowed "shawls, bonnets, &c." on Bates and Small surely to disguise them before they sped off.[76] According to the abolitionist *Liberator,* it was "the colored *females* in attendance, and not . . . the colored *men*" who bore the women out of court.[77] The crowd of "four or five hundred blacks of all ages and both sexes" followed the carriage,

[73]"Notice," *Advocate,* August 1, 1836; "Abolitionism Exemplified," *Centinel and Gazette,* August 2, 1836; "The Slaves—Almost a Mob," *Times,* August 2, 1836; "Supreme Judicial Court," *Post,* August 2, 1836; Untitled note, *Courier,* August 2, 1836; "Case of Two Women Claimed as Slaves," *Advocate,* August 2, 1836; BFASS, *Annual Report, 1836,* 59. The *Centinel* and the *Courier,* relying on rumours, placed the meeting at the more morally dubious Julien Hall, where Abner Kneeland and his "free thought" followers gathered.

[74]"The Slaves—Almost a Mob," *Times,* August 2, 1836.

[75]W[illia]m C. Nell, "The Colored Citizens of Boston," *Liberator,* December 10, 1852.

[76]"Outrage in Court," *Courier,* August 2, 1836.

[77]"Rescue of Slaves," *Liberator,* August 6, 1836.

"shouting 'hurrah for freedom,' &c."[78] It fled dramatically over the Mill Dam extending westward from Beacon Street, as if heading down the Boston Neck.

Maybe it did, or maybe it did not. Huggeford thought the carriage had gone toward Brighton or Brookline. He pursued it until mid-day on Thursday, August 4, returning to Boston at night. The posse went through Needham, following either the carriage or rumours of its passage, and stopped at Framingham. The *Post* thought the women passed Framingham and jumped on a late train to Worcester where they changed into men's clothing. The pursuers may have been chasing planted leads, though. On August 3, the *Courier* noted a rumour that the carriage Huggeford followed to Needham was a decoy and that Bates and Small had left it soon after crossing the Mill Dam. On August 9, the same paper speculated that the women had taken a British mail ship, the *Lady Ogle,* which sailed from Boston to Halifax on August 4.[79] Huggeford gave up, but Turner pursued Bates and Small to Portland, Maine, where he and the "Marshall of Maine" searched the house of Sewall's friend, but according to Sewall's biographer, who reviewed his private letters, Small and Bates did indeed make it to Halifax.[80]

[78]"Outrage in Court," *Courier,* August 2, 1836.

[79]"The Slave Case," *Transcript,* August 4, 1836; Outrage in Court," *Courier,* August 2, 1836; "The Slave Case," *Courier,* August 3, 1836; "Supreme Judicial Court," *Post,* August 2, 1836"; "Sheriff Huggeford's Statement," *Transcript,* August 13, 1836; "The Rescue of the Slaves," *Atlas,* August 3, 1836; Untitled note, *Courier,* August 9, 1836. The *Lady Ogle* ran back and forth between Boston and Halifax and arrived in Halifax on August 8. Other ships also ran between Boston and Nova Scotia. The brig *Acadian* arrived in Halifax on August 11, three and a half days after leaving Boston with five unnamed passengers in steerage. See "British Packet Sailings, Falmouth <> North America: 1755–1840 and Mail Boats, https://www.rfrajola.com/mercury/British%20Packet%20NA%201755-17840%20with%20Mailboats.pdf (accessed November 29, 2020); J.S. Martel, "Ships to and from Nova Scotia 1815–1838, http://www.theshipslist.com/ships/Arrivals/novascotia2.shtml#1836 (accessed November 29, 2020); "Shipping Journal," *Mercantile Journal,* August 2, 1836.

[80]Tiffany, *Sewall,* 64. Sewall may have received this information from a Nova Scotia relative. His maternal uncle Simon B. Robie was a prominent politician and former judge in Halifax, and correspondence indicates that abolition and fugitive slaves were a family concern. See Robie-Sewall family papers, Ms. N-804, Box 2, Massachusetts Historical Society, Boston. I suspect that Bates and Small would have been taken into the care of one of the African churches, perhaps Richard Preston's African Baptist Church on Cornwallis Street. As the women appear to have assumed the names Bates

Reactions and Interpretations

The Massachusetts Anti-Slavery Society, whose celebrations had been disrupted, distanced itself from the rescue, attributing "the recent tumultuous conduct of certain colored persons" to their "ignorance and misapprehension." The board of the society declared its "deep regret" and "decided disapprobation." Tacitly disavowing any connection to Sewall, Snowden, Chapman, Southwick and the rest, it denied that local abolitionists had any hand in these events. The board objected that African Americans' constitutional rights were at risk in the menacing threats being made to exclude them from courtrooms and prevent them from assembling peaceably. The *Recorder* denied that any such threats to constitutional liberty had been made.[81]

The press drew a thick veil over the Lombards' involvement. Only the *Post* mentioned that the ship was consigned to Ammi C. Lombard, and it declared that in court, "[t]he only white persons present, except a few members of the bar, were about a dozen male and female abolitionists—half-and-half of each." The *Atlas* said the courtroom "was thronged with negroes, with here and there a sprinkling of white people, nearly every one of whom was a violent abolitionist," the crowd's whole goal being to defeat the legal process if the women were not freed. The *Mercantile Journal,* which had a reporter present, did not describe the crowd.[82] Both the onlooker "C.W." and Ephraim Lombard—who swore his deposition in court—went unmentioned.[83]

The newspapers had great difficulty presenting the facts and assessing responsibility for the escape. The circumlocutions and

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and Small in escaping, they may well have adopted new names in Nova Scotia. Census records, which provide no racializing notations, do not supply enough information to permit identifying the women. The *Recorder* ("Rescue of the Slaves," August 12, 1836) reported that Small and Bates reached Saint John, New Brunswick, but it seems a less reliable source.

[81]"Massachusetts Anti-Slavery Society," *Liberator,* August 6, 1836; C.C. Burleigh, "Notice," *Post,* August 4, 1836; "Rescue of the Slaves," *Recorder,* August 12, 1836. Cf. "Abolition Riot," *Centinel and Gazette,* August 3, 1836.

[82]"Supreme Judicial Court," *Mercantile Journal,* August 1, 1836.

[83]"Supreme Judicial Court," *Post,* August 2, 1836; "Outrageous Violation of Justice," *Atlas,* August 2, 1836.

heavy reliance on the passive voice suggest not just general uncertainty about conflicting accounts and a desire to skate over Turner's obstreperous behaviour but specific uncertainty about how appropriate or plausible it was to attribute the escape to the initiative of African Americans and white women. The newspapers sought evidence of an abolitionist conspiracy to meet the *Chickasaw* and rescue Bates, Small, and the unnamed man. The possibility that African Americans themselves saw the captives and seized the initiative seems to have been inconceivable to most commentators. Some, of course, who knew or suspected more would have stayed silent to avoid providing information that might aid in the chase. For the majority, though, it was unclear where to heap the necessary blame. Sewall was an obvious target. Not everyone believed the *Transcript* writer who claimed authoritatively that Sewall had said he would not help if a rescue was intended. The *Centinel* spoke of "Mr. Sewall's mob," alleging that he urged the women to fly, and quoted him defiantly calling Turner a "rascal," an opprobrious term. The *Centinel* thought Sewall deserved professional censure.[84]

In the courtroom after the rescue, Sewall expressed regret to Shaw for "any violation of decorum" and attributed the disruption to others' fairly minor misunderstanding of legal procedure. He later explained that he himself had also thought the women had been discharged, apparently because Turner's intervention confused the proceedings. He wanted them gone before Turner could seize them, but he denied doing anything to prompt a rescue.[85] Whether or not Sewall actually believed that the crowd, including Snowden and Southwick, misunderstood, this position certainly offered the best protection from those who sought legal or extralegal payback for the escape. Shaw likely accepted this position, at least publicly: he seems to have been less upset than the writers for the *Centinel* and the *Mercantile Journal*.

[84]"The Slave Case," *Transcript,* August 2, 1836; "Abolition Riot," *Centinel and Gazette,* August 3, 1836.

[85]Tiffany, *Sewall,* 63–64; S.E. Sewall, letter to the editor, *Atlas,* August 6, 1836.

Because Shaw's meaning and intentions were key to assigning blame, the newspapers disagreed vehemently over what he said just as the escape began and after it was over. One important question was who had custody of the women. The *Advocate,* the mouthpiece of lawyer Benjamin Franklin Hallett, argued that the women were never in the court's custody but only ever in Eldridge's. Charles Greene's normally astute *Post* claimed that as the rescue began, Shaw was saying that the women should be discharged from Eldridge's custody, but elsewhere the *Post* claimed that Shaw told Huggeford and Sumner that Bates and Small were in their custody, making them responsible for bringing the women back. The *Transcript* initially claimed that Shaw said that Small, Bates, and Eldridge were all in the sheriff's custody. Later the *Transcript* accepted the explanation of Sumner and Huggeford that the women were in Huggeford's custody when they escaped but not Sumner's. The *Post* and the *Transcript* differed on whether or not Shaw discharged the women "virtually" two days later or expressed—as some said Wilde also did—the view that the disturbance could not reasonably have been anticipated. The *Transcript* also claimed to have been told on good authority that Shaw exonerated Sumner and the other officers from blame.[86]

The newspapers quickly concluded that Huggeford had tried his best. He had been overpowered in the courtroom but had gathered a posse and energetically pursued Small and Bates for several days. Both officers had been fulfilling their duties, Huggeford drawn into an emergency situation while Sumner continued with business as usual. However, Sumner's lack of enthusiasm for continuing the pursuit after the first day set them apart. When Huggeford returned that night, Sumner commended him and said the day's expenses would be shared between them, but if Huggeford continued in the pursuit, he alone would bear the ensuing costs. The *Liberator* pointed out

[86]"The Slave Case," *Transcript,* August 2, 1836; "Supreme Judicial Court," *Post,* August 2, 1836; "The Slave Rescue Again," *Post,* August 5, 1836; Untitled note, *Post,* August 4, 1836; "Sheriff Sumner's Statement," *Transcript,* August 3, 1836; "Rescue of the Slaves," *Recorder,* August 12, 1836; Untitled editorial note, *Transcript,* August 3, 1836.

that Huggeford was an "officer of the Boston Young Men's Colonization Society."[87] Garrison viewed colonizationists as complicit in maintaining slavery, and he insisted that free African Americans were fellow citizens who should not be sent off to found a colony in Africa.[88]

Suspected—justly—of antislavery sympathies, Sumner was blamed for the escape. The father of a young attorney of the same name, who would become a leading antislavery advocate, Sumner's name as a "scrupulously faithful officer" had previously been "unblemished." Now he was attacked for his apparent reluctance to assist Turner. The *Centinel*, with typical menace, pronounced that Sumner "ought to be turned neck and heels out of office, with the utmost legal despatch," and claimed his inaction had wounded the judiciary and stigmatized Boston. It accused him of shaking Sewall's hand and wishing him success, which it considered might well have led fanatics to believe that the law would overlook a riot. The *Post* accused Sumner of failing to station enough constables in court despite the accumulating crowd and of responding inadequately to Huggeford's apprehensive message by sending only one constable and then leaving Court Square. The *Post* also accused Sumner of wishing Sewall well with his cause within earshot of Bates, Small, and others. The *Transcript,* while attributing the events "much more to the excited ignorance of these deluded people, than to a deliberate intention to enact the enormities of which they were guilty," nonetheless concluded that Sumner had "suffered the rescue with his arms akimbo and his eyes wide open."[89]

[87]"The Slave Rescue Again," *Post,* August 5, 1836; "Sheriff Huggeford's Statement," *Transcript,* August 13, 1836; Untitled editorial note, *Liberator,* August 6, 1836.

[88]See William Lloyd Garrison, *Thoughts on African Colonization, Or, An Impartial Exhibition of the Doctrines, Principles and Purposes of the American Colonization Society* . . . (Boston: Garrison and Knapp, 1832).

[89]"The Slave Case," *Transcript,* August 2, 1836 and August 4, 1836; "Sheriff Huggeford's Statement," *Transcript,* August 13, 1836; "The Slave Rescue Again," *Post,* August 5, 1836; "Abolition Riot," *Centinel and Gazette,* August 3, 1836; editorial commentary on Sumner's statement, *Centinel and Gazette,* August 5, 1836. The *Times* remarked that "unpleasant as it is to our Yankee notions to see women, black or white [!],

Concerned to appear fair, the *Transcript* printed Sumner's and Huggeford's explanations, which several other papers copied. Sumner's appeared on August 3, while the pursuit was in progress; Huggeford's appeared on August 13 after it was over. Sumner explained that he had expected that Shaw would discharge the women from Eldridge's detention under the writ of habeas corpus and had anticipated no difficulty. He did not know anything was happening until Cole arrived, at which point he took with him the only two constables he could find and hurried to the Supreme Court. He implicitly denied the *Post*'s allegation that he had strolled off on his own. He denied deliberately leaving Huggeford without enough constables, saying that he and Huggeford had the same power to raise a force to preserve the peace. He asserted that if discharged, Bates and Small would have been escorted out of court: a habeas corpus application was not to be the occasion for delivering the prisoner into a new detention. No Massachusetts officer had a right to consider anyone a slave until a court had made that determination. As to shaking Sewall's hand, Sumner denied even speaking to Sewall on the Monday: the overheard conversation had taken place two days earlier. Sumner said he could not recall its details but added, "I should be ashamed of myself if I did not wish that every person claimed as a slave, might be proved to be a freeman; which is the purport of the words attributed to me." The *Liberator* commended Sumner for his "manly and independent" self-defence. The *Times* called his statement a "triumphant vindication." The *Mercantile Journal* printed the relevant corrections but continued to ask why so few constables attended such contentious proceedings and why no one had been arrested.[90] Looking back on events in 1852 and observing that Sumner had been "severely censured" for not

carried back unwillingly into slavery," the rescue had been wrong, even if motivated by misapprehension and excitement: "Rescue of Slaves," *Times*, August 2, 1836.

[90]"Mr. Sheriff Sumner's Statement," *Transcript*, August 3, 1836; "Sheriff Huggeford's Statement," *Transcript*, August 13, 1836; "Sheriff Sumner's Letter," *Liberator*, August 20, 1836; "Sheriff Sumner's Statement," *Times*, August 5, 1836; "The Slave Case," *Mercantile Journal*, August 3, 1836; Editorial Note, *Mercantile Journal*, August 15, 1836.

preventing the escape, a commentator thought he neither could nor would have done so, even if he had been able.[91]

The abolitionist women's participation in these events drew commentary indicating that rights to free expression and assembly were not things decent women ought to exercise. The *Post* was mortified by the shame the women abolitionists' behaviour—and especially Southwick's rebuke of Turner—cast upon Boston. Women could not win honor or admiration from such exploits. Presumably the idea that women could or should have other motives did not commend itself to Charles Greene's mind. The *Centinel* thought the grand jury should consider charges arising from the rescue and that the "parcel of silly women, whose fondness for notoriety has repeatedly led them into scenes of commotion and riot" should be given "straight petticoats," as should the "husbands, fathers and guardians, who allow[ed] them to excite commotion in the city." The *Recorder* thought the "'ladies,' who [were] said to have scolded in the Courthouse" could have found "a more suitable place, as well as a more amiable employment": this "nonsense about 'female influence'" had "flattered some women out of nearly all their sense of propriety." The *Transcript* mentioned a uniform sense of disgust at the "indecency" of the women's actions but declined to say more. Hallett's response, in the *Advocate,* was different. He understood that after the scene was over, "an abolition lady in the Court Room, read a lecture to Mr[.] Turner, the slave agent, which satisfied him of the truth of what George Thompson says, that 'woman is in the field.'"[92]

The Boston newspapers had various responses concerning the relationship between collective violence and law. The *Recorder* consistently deplored all mob actions. As it had when Garrison narrowly escaped the tar kettle ten months earlier, the

[91]Wm C. Nell, "The Colored Citizens of Boston," *Liberator,* December 10, 1852.

[92]Untitled editorial, *Post,* August 3, 1836; "The Slave Rescue Again," *Post,* August 5, 1836; "Abolitionism Exemplified," *Centinel and Gazette,* August 2, 1836; "Rescue of the Slaves," *Recorder,* August 12, 1836; "The Slave Case," *Transcript,* August 2, 1836; "Case of Two Women Claimed as Slaves," *Advocate,* August 2, 1836. The BFASS, *Annual Report, 1836,* 60–62, also published excerpts from various newspapers showing their outrage.

Recorder expressed the view that abolitionists had "produced a state of feeling" in which events like this had become increasingly likely although it noted the Massachusetts Anti-Slavery Society's denial of any involvement in the rescue. The *Recorder* found interference with courts more worrisome than other outrages. The guilt of the African American crowd was limited because they were unaware their "violence" was illegal. The real danger was the disregard of the law and the courts, which made this rescue worse than it would have been if "[t]he slaves" had been rescued from the captain or Turner. "While the authority of our courts is maintained, a riot any where [*sic*] else may be punished; but if riots put down our courts, there is no power left to administer law." The *Transcript*, similarly, thought the African Americans had likely committed this "gross outrage" against law because they were too ignorant to understand legal processes—the papers generally agreed on this point. "The whole outrage ought probably, in reason to be attributed to these delicate adepts in the science of brawling." The *Transcript* thought the crowd was focused on getting Bates and Small out of danger of re-arrest, not out of reach of the law.[93]

Joseph Tinker Buckingham's *Courier* was perturbed by other newspapers' lack of interest in identifying or taking legal proceedings against any of the African American participants in this "gross outrage." The *Centinel*, likewise, was astonished that no one was arrested given how many people were involved and clearly identifiable.[94] The *Transcript* responded that although Huggeford was blameless and Sumner "a man of straw," the attorney general or county attorney should pursue charges. Although all the "audacious blacks" deserved to be brought to justice, one woman in particular—probably the one who stopped Huggeford—deserved legal attention:

Where is the fat, burley wench—the dusky amazon—who took such an active part in the rescue—aiding, abetting, and encouraging, by

[93]"Rescue of the Slaves," *Recorder*, August 12, 1836; "The Slave Case," *Transcript*, August 2, 1836.

[94]Untitled note, *Courier*, August 15, 1836; editorial comment on Sumner's letter, *Centinel and Gazette*, August 5, 1836.

muscular strength and inflammatory language? We are told there was such a woman present, and that she was conspicuous enough not to be forgotten. Where was she? Where are the rest? Were there no spectators present?—no witnesses? Was the deed done in the dark, or in open day?[95]

Sewall's biographer reveals in a footnote that this remarkable woman "did the scrubbing in Mr. Sewall's office."[96] These questions may well have been more pointed than they appear at this distance.

Aside from the *Liberator* and the *Advocate,* the newspapers pronounced themselves outraged at the affront to law and justice entailed by the escape from the courtroom before Shaw finished speaking and contrary to the orders of Huggeford and of Shaw himself. Like Lombard's presence, Turner's interruption of Shaw was ignored. The *Advertiser* thought Turner had "proceeded with the utmost prudence and propriety" but said nothing against anyone else.[97] The *Atlas* called the "outrage" "one of the first triumphant entries of Judge Lynch into our city" and called the white men and women "who aided and abetted the blacks on this occasion . . . deeply culpable." Indeed, "[t]hat respectable females should have played a part in such a scene of violence and disorder is hardly credible."[98] The *Centinel,* which drew on the account from the less bloodthirsty *Mercantile Journal,* perceived a plot to subvert legitimate authority and the slaveowner's rightful legal claim, which northern courts were bound to support. The *Centinel* accepted that the captain's detention of Bates and Small was illegal but thought that, as Sewall would have anticipated, Shaw would have turned them over to Turner, who bore the necessary authorization. The *Centinel* also claimed that a warrant for the women's arrest had been issued, for which there is no other evidence. Sumner, it

[95]"The Slave Rescue," *Transcript,* August 15, 1836. Cf. Editorial, *Mercantile Journal,* August 16, 1836.

[96]Tiffany, *Sewall,* 63.

[97]"Boston. Tuesday Morning, August 2, 1836," *Advertiser,* August 2, 1836.

[98]"The Rescue of the Slaves," *Atlas,* August 3, 1836.

said, had no right to anticipate what the court's judgment would be, even though both he and Huggeford had legal expertise. The *Centinel* declared it Sumner's duty to pursue Bates and Small into other states and even "foreign countries," as there were in such cases "no limits to the jurisdiction of the Sheriff of Suffolk."[99]

The *Centinel* opposed abolition, characterized free African Americans as idle and dissipated, and considered abolitionist lawyers to be violating their obligations under the constitution. It was sure that the rescue "ha[d] not its parallel in the annals of crime." In the great contest between law and brute force, upholding the dignity of the state's fundamental "public tribunals" was of paramount importance. However, the idea of relying on such tribunals to address the affront to the court lacked appeal. Instead, the *Centinel* advocated using naked extralegal power—a respectable white mob like the one that captured Garrison—to defend the courts, which it saw as consisting of righteous supporters of majority opinion. "[H]ad it been known in State street that there was any danger of violence, five hundred men could have been rallied to the Court in less than fifteen minutes, prepared to sustain the supremacy of the laws." Law would be overcome if "negroes are allowed to invade our Courts, whenever one of their own color is in custody." It would be better to call out the militia, with its bayonets, than to "allow the mob to prevail." The question, the *Centinel* insisted, was about law and order, not the "expediency of the right of holding slaves."[100]

[99]"Abolitionism Exemplified," August 2, 1836, "Supreme Judicial Court," August 2, 1836, and editorial commentary on Sumner's statement, August 5, 1836, all in *Centinel and Gazette*. Huggeford had trained as a lawyer in Shaw's office: C.P. Sumner, letter to editor, *Liberator,* August 20, 1836. Sumner gave a detailed address in 1829 on the history and practice of sheriffs in England and Massachusetts: C.P. Sumner, "Sheriff Sumner's Discourse," *American Jurist* 3 (July 1829): 1–24.

[100]Editorial commentary on Sumner's statement, August 5, 1836; "Abolition Riot," August 3, 1836; and "Abolitionism Exemplified," August 2, 1836, all in *Centinel and Gazette*. See also James Madison, "Emancipation: Condition of the Descendants of a Number of Emancipated Slaves in Prince Edward, Va[.]," *Centinel and Gazette,* July 30, 1836.

The *Recorder*, the *Post*, and Abner Kneeland's *Investigator*, which repeated the *Post*'s account, joined the *Centinel* in seeing the collective action of African Americans and white women abolitionists as harbingers of disorder and disaster. The *Centinel* reasoned that the law was to serve the majority's interest in maintaining friendly commercial relations with the South. Those who opposed these views deserved not only legal but extralegal punishment. Abolitionists were wolves in sheep's clothing: the *Centinel* thought it remarkable that "men and women, who set themselves up as models of meekness, religion and morality, should have the hardihood, not only to trample on the Constitution and laws, and the public tribunals, but to run a Quixotic tilt against the well known public opinion"; their "consorting with negroes" was a matter of taste, but they should leave others alone and not disturb the peace. Whereas the *Post* was indignant at the affront to the court and Turner, the *Centinel*'s concern was with supporting slavery. Its writer thought that because of this action, Shaw had failed to return Bates and Small to Turner, as the writer, probably wrongly, thought he otherwise would have done. The indignity was worsened by being committed by people who did not belong in "our" courts and ought to have been subordinate. A correspondent anticipated that Sewall and his abettors would be punished for "this most disgraceful riot" and urged that only such action would "satisfy our Southern brethren, and convince them that their *rights* and *property* will be protected, at least here in New England, from the rapacity either of individuals or societies."[101]

The sceptical *Times* saw the *Centinel* as posturing, demonstrating a willingness to whip up a mob in order to draw Southern support for its preferred candidate in the upcoming presidential election. The *Times* wryly pronounced itself pleased to see the *Centinel* coming to the defence of the law, given that two of its editors had participated in the mob that tried to lynch Garrison. It denied a Baltimore correspondent's

[101] "Abolition Riot" and A Friend of the Union [pseud.], letter to the editor, both in August 3, 1836, *Centinel and Gazette*.

assertion that the rescue of Bates and Small was even more offensive to law and order than Baltimore's three days of rioting had been when John B. Morris's house was destroyed.[102] Even more than the *Times,* Garrison's *Liberator* positively oozed sarcasm in its declarations of admiration for the other newspapers' "newfound zeal in behalf of the dignity and sacredness of law." From their denunciations, one would guess they had forgotten "their own achievement in stirring up a 'property and standing' mob, to destroy an obnoxious sign, and disperse an assembly of peaceable females." The *Centinel*'s writers inflated the "outrage" at the court house, in "the first ardor of their new love," which was understandable since they were so new to defending the supremacy of law. The *Centinel* aimed to take advantage of a mere misunderstanding "to embitter the prejudices against the poor colored people, by exaggerating their offence into a daring and intended contempt of judicial authority, and an atrocious disturbance of the peace." Noting that women were the key actors, the *Liberator* asserted that their errors, if any, resulted from "their sympathy for their sisters in distress" and love of liberty—whereas the other newspapers sympathized with slavecatchers and winked at the actions of people like Eldridge, who had detained the women with no legal basis, or Turner, who tore up free papers. Both had violated the law from the basest of motives. Where was the concern about kidnapping "under the very eaves of Faneuil Hall"? The *Liberator*'s final snide observation concerned the colonizationists, Turner and Huggeford. No one, the *Liberator* said, would doubt Turner's sincere wish to see all blacks "free and colonized," even though he had come all the way from Baltimore to retrieve two women "who had succeeded in colonizing themselves far enough off, one would think, to have satisfied any reasonable man."[103]

[102] "The Majesty of the Law," August 4, 1836; A Baltimorean [pseud.], letter to the editor, August 8, 1836, both in *Times*.

[103] "Rescue of Slaves," *Liberator,* August 6, 1836 and editorial commentary following.

Conclusion

The violence was not over. At least one of the abolitionist women in the courtroom, having been named in the *Post*, received a note from another abolitionist warning her that violence was intended against her and her husband at nine o'clock that evening, August 3.[104] Sewall received hate mail from Baltimore and Virginia and, four weeks after the rescue, was assaulted in his office by a Baltimore man named Adams, a relative of Morris's, who intended to horsewhip him. Ephraim Lombard accompanied Adams and stood by for the assault. Lombard or an associate had arranged the meeting the previous day, but Sewall and another abolitionist lawyer, Ellis G. Loring, had anticipated violence. Adams struck Sewall on the head and shoulders with the cowhide, but Sewall, according to his biographer, "seized his assailant, ran him back against the wall, and knocked his head there until he was quite willing to be allowed to take himself away," when Loring and someone else intervened. The next day the *Post* declared Boston insufficiently "severe against the perpetrators of that common species of Lynching, cowhiding or horsewhipping." Shooting would follow whipping, and Boston would start to look like some of the new states, "a constant spectacle of quarrelling and bloodshed."[105] Debates about whether and how far the free states would or could constitutionally protect former slaves continued, especially as the famous *Aves* case over the child Med unfolded over the next weeks.[106]

In the tense, interconnected seaboard world, this episode became—at least temporarily—a touchstone for various claims.

[104]BFASS, *Annual Report, 1836,* 62.

[105]Tiffany, *Sewall,* 66; Untitled note, *Post,* August 31, 1836. BFASS, *Annual Report, 1836,* 49, identified the horsewhip disdainfully as "a *southern* weapon" (italics in original). According to Earl M. Maltz, Adams was a naval lieutenant, *Fugitive Slave on Trial: The Anthony Burns Case and Abolitionist Outrage* (Lawrence: University Press of Kansas, 2010), 13. Letters retained in the Robie-Sewall family papers threatened Sewall with violence if he visited a slave state and said his actions would have drawn disbarment in Maryland. He aimed, one claimed, at the destruction of the South: A Member of the Boston Bar [pseud.] to Sewall, August 2, 1836 and Wm. A. Clarke to Sewall, August 9, 1836, Robie-Sewall Family Papers.

[106]*Comm.* v. *Aves,* 18 Pick. 193, 35 Mass. 193 (1836).

The *Centinel* made sure to tell business-oriented Bostonians that a New York newspaper had told its own readers that while Shaw "was hearing arguments relative to two absconding slaves, the property of a gentleman on a visit to that city, a mob consisting of blacks and whites, broke into the court room, knocked down the officers, rescued the prisoners, and carried them off in triumph in a coach."[107] Abolitionists noted the strategic and instrumental nature of the support given to legal institutions by "respectable" gentlemen. We, in turn, may note the prevalence of violence and how majoritarian constitutional understandings accommodated it over the protests of those who claimed that a secure constitutional order could condone no extralegal violence whatsoever. In addition, the assumption that a slavecatcher needed a federal warrant to take a fugitive into a courtroom in order to get a certificate to remove her from the state casts light on Chief Justice Taney's vigorous disagreement with Justice Joseph Story in *Prigg* six years later. Story's position that states did not have to assist in the retrieval of fugitives would have left other slavecatchers to go all the way to Cambridge to find Story himself in order to get their warrants. Taney must have viewed this procedure as highly problematic.

White women navigated the competing pressures of conscience and social norms that admonished them to act or refrain. Perhaps most significantly, though, this episode reveals the difficulties with the narrative biases embedded in the sources that concealed the involvement of the Lombards and could seldom conceptualize African Americans as prime movers in this complex rescue. To be fair, of course, their white allies trod a fine line in defending their own commitment to legal processes without drawing undesirable attention—and, with it, blame—to African American agency. Through this "abolition riot," Bates and Small—or however they afterwards called themselves—escaped, and their freedom required protection. The task of setting the facts straight lay with the future.

[107] "Lynch Law Triumphant," *Centinel and Gazette*, August 5, 1836, quoting the New York *Transcript*.

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