“The whole tribe of Northern Slave-Catchers”:
U.S. Commissioners and the Failures of the Fugitive Slave Law, 1850-1854

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Chapter 1

From Notorious to Nameless: The Evolving Memory of Commissioners

In the final days of 1850, former president John Tyler penned an effusive note to his brother-in-law. "Your name is becoming quite familiar to the lips of men around us," he wrote admiringly.[25] Tyler's compliment, however, was a vast understatement. The name of Alexander Gardiner—his 31-year-old protege and trusted confidant—had indeed become "familiar to the country," in the words of one newspaper, thanks to his "prompt execution of the fugitive slave law." As a U.S. commissioner operating out of New York City, Gardiner had heard the first case under the controversial new statute, remanding freedom seeker James Hamlet to slavery on September 26, 1850. Gardiner's official act catapulted him into the national spotlight, garnering an onslaught of praise and condemnation. The Richmond *Enquirer* optimistically predicted that "the precedent, thus furnished by Commissioner Gardiner" offered "full assurance that hereafter the requirements of the law and Constitution will be promptly obeyed and executed at the North."[26] Tyler, brimming with pride, insisted that Gardiner's "promptitude" had "inspired the whole South with confidence."[27] New York papers, on the other hand, labelled him "Slave-Catcher-General Alexander Gardiner."[28] Far from a nameless federal official, lost in the milieu of a vast

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[25] John Tyler to Alexander Gardiner, December 27, 1850, Tyler Family Papers, Special Collections, Swem Library, College of William and Mary.

[26] "Cheering Sign," Richmond *Enquirer*, October 4, 1850.

[27] John Tyler to David L. Gardiner, February 12, 1851, Tyler Family Papers, College of William and Mary.

[28] "Fugitive Slave Law-Hamlet in Chains," New York *Atlas*, October 13, 1850; "Declines the Honor," New York *Tribune*, October 29, 1850.

judicial bureaucracy, Gardiner was the subject of intense scrutiny, his name sprawled across the columns of newspapers throughout the fractious nation.

During the 1850s, Gardiner—and the small corps of commissioners who followed in his footsteps—experienced a whirlwind of fame and infamy. Alternatively praised and denounced, these federal appointees figured prominently in the barrage of newspaper reports which chronicled the law's operations. In the decades following the Civil War, however, a series of accounts emerged that recast commissioners in a more sympathetic light, their reputations buoyed by the national drive towards reconciliation and prevailing notions of legal formalism. Instead of rancorous and divisive political actors, commissioners were portrayed as dutiful functionaries within an expansive federal judiciary, their actions closely circumscribed by the letter of the law. While absolving commissioners of the guilt for consigning men and women to bondage, these post-war accounts also diminished commissioners' importance as individual actors, paving the way for their omission from later scholarship. Nearly a century later, Stanley Campbell's widely cited study *The Slave Catchers* (1970) claimed that commissioners had faithfully enforced the 1850 statute, though his conclusions rested largely upon statistics, without exploring the human forces behind those numbers. More recently, historians have critiqued Campbell's influential thesis by illuminating the campaign of resistance waged by freedom seekers and northern anti-slavery activists. Yet scholars have not similarly explored the human reality of the law's enforcement apparatus, rendering the "villainous tribe of Commissioners" so familiar to contemporary Americans little more than an indistinct and hazy presence at the margins of historical narratives.[29]

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[29] "Another Deed of Darkness," Philadelphia *Pennsylvania Freeman*, December 11, 1851.

Readers who paged through any number of northern and southern serials during the 1850s would have found the names of the law's enforcers plastered in headlines, news items and of course, the ever-present reports of fugitive cases. As their names appeared in print, many commissioners forged lasting reputations that spanned across state lines. Following a pair of renditions in the autumn of 1851, Commissioner Henry K. Smith of Buffalo, New York garnered more national notice than he had during his earlier stint as mayor of the city, derided as "Mr. Slave-hunting Commissioner Smith." More than a year later, when Wisconsin Democrats invited Smith to speak in their state, a Milwaukee paper reminded readers that the "inhuman" Smith was "the Slave Commissioner of Buffalo."[30] Richard McAllister, Smith's counterpart in Harrisburg, Pennsylvania, was reviled throughout the northern press as "the very basest of the whole tribe of Northern slave-catchers."[31] Yet his overt partiality towards slaveholders ingratiated him with southern serials, who praised his "faithful execution of the fugitive slave law" which had "done much to ensure the peace and safety of the Union."[32] With apparent ease, anti-slavery editors recited lists of the notorious federal officers. "Ingraham of Philadelphia, Hall of New York, Curtis of Boston, and Smith of Buffalo," were the four "worthies" singled out by a Pennsylvania jour-

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[30] "The Buffalo Fugitive Case," *Pennsylvania Freeman*, September 4, 1851; "A Haynau Democrat!," Milwaukee, WI *Free Democrat*, October 9, 1852.

[31] "The Climax of Shamefulness," *Pennsylvania Freeman*, January 29, 1852; "News from the Place Beneath," *Pennsylvania Freeman*, February 12, 1852; "Subserviency to the Slave Power," Boston *Liberator*, July 2, 1852.

[32] Savannah *Georgian*, quoted in "Hon. Richard McAllister, of Pennsylvania," *Pennsylvania Freeman*, January 20, 1853.

nalist in January 1853, while the New York *Tribune* scornfully rattled off the names of "our Kanes, Griers, Curtises, Ingrahams, Millers and Penderys."[33]

Those less attuned to the day-to-day roiling over the law might have been drawn instead to the dramatic cartoon the New York *Atlas* published in mid-October 1850, which depicted Commissioner Gardiner issuing his decision in the Hamlet case from aloft a throne, an unmistakeable symbol of despotic authority.[34] This trope of the tyrannical commissioner was picked up and crystalized by a host of pamphlets, such as Bostonian Richard Hildreth's *Atrocious Judges* (1856), which linked the abusive judges of 16th and 17th century England's notorious Star Chamber to their "only American parallel"—U.S. commissioners acting under the mandate of the 1850 law. Hildreth's pamphlet touched a nerve with already aggrieved northerners, sparking a series of editorials that dotted northern papers for several months, leaving many readers little choice but to consider whether the controversial "slave commissioners" in fact comprised "an American Star Chamber."[35] Even the contemporary fictional landscape at times reflected commissioners' prominent status, revealing that familiarity with the law's enforcers was not confined to those who scrupulously pored over newspaper reports, but reached a broader base of literate

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[33] *Pennsylvania Freeman*, January 20, 1853; "Atrocious Judges," New York *Tribune*, March 1, 1856; "Letter from Philadelphia," New Lisbon, OH *Anti-Slavery Bugle*, May 7, 1859.

[34] "Fugitive Slave Law-Hamlet in Court," New York *Atlas*, October 20, 1850.

[35] Hildreth, *Atrocious Judges*, 35, 158-161; New York *Evening Post*, December 24, 1855; "A New Book by Richard Hildreth," Washington, D.C. *National Era*, January 10, 1856; "Atrocious Judges," New York *Tribune*, March 1, 1856; "Characteristic," Buffalo, NY *Commercial*, May 7, 1856; Robert M. Cover, "Atrocious Judges: Lives of Judges Infamous as Tools of Tyrants and Instruments of Oppression," *Columbia Law Review* 68:5 (May 1968): 1003-1008; Robert M. Cover, *Justice Accused: Antislavery and the Judicial Process* (New Haven, CT: Yale University Press, 1975), 149-158, 179; Paul Finkelman, *An Imperfect Union: Slavery, Federalism, and Comity* (Chapel Hill: University of North Carolina Press, 1981), 255; Robert N. Strassfeld, "Atrocious Judges and Odious Courts Revisited," *Case Western Reserve Law Review* 56:4 (Summer 2006): 899-900; Jeannine Marie DeLombard, *Slavery on Trial: Law, Abolitionism, and Print Culture* (Chapel Hill: University of North Carolina Press, 2007), 35-38.

northerners. In an expanded 1852 edition of his novel *The White Slave*, Hildreth appended a new chapter that included a scathing description of one fictional commissioner's operation, with a pair of dubious actors seemingly modeled off Philadelphia commissioner Edward Ingraham and his deputy, George Alberti.[36]

Some 12 years after Hildreth's fictional commissioner appeared in print, a former U.S. commissioner was spearheading the drive for the law's repeal—Massachusetts senator Charles Sumner. Appointed to the post in the early 1840s, Sumner had proclaimed his hatred for the 1850 law just days after its passage, before a sizable crowd at Boston's Faneuil Hall. "I cannot forget that I am a man, although I am a Commissioner," Sumner had thundered at the time, vowing that he would resign if ever called upon to hear a case. Less than a year later, he was elected to the U.S. Senate, where he immediately began agitating for its repeal. During the spring of 1864, in the midst of the Civil War and with a Congress heavily dominated by Republicans, Sumner again pressed for the repeal of the controversial law and its 1793 predecessor, in a bid to "sweep from the statute-book all statutes or parts of statutes for the rendition of fugitive slaves." Yet by 1864, Sumner's persistent campaign was largely a symbolic gesture in light of the immense changes wrought by the war, from the legislation shuffled through by Congressional Republicans, President Abraham Lincoln's Emancipation Proclamation and recent moves towards statewide emancipation in Maryland and Missouri. Even the feeble opposition, mounted by border state southerners and a few disconsolate northerners, readily conceded that the law was a "nullity," a statute which could "only operate upon a few persons in Kentucky who hold slaves and are loyal to the

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[36] Richard Hildreth, *The White Slave; or, Memoirs of a Fugitive* (Boston; Tappan and Whittemore, 1852), 405; The name of Hildreth's fictitious deputy, Grip Curtis, closely resembled that of Boston commissioner George Ticknor Curtis, whom the novelist especially loathed.

country." After browbeating his Senate colleagues for weeks on end, on June 23, 1864, Sumner brought the repeal up for a vote, prevailing by a comfortable margin of 27-12.[37]

The Fugitive Slave Law of 1850, born in controversy and chaos, died in near anonymity, news of its repeal largely drowned out by the progress of the war and the concerted push for the ratification of the 13th Amendment. Days after the Senate vote, with the stroke of Abraham Lincoln's pen, the law was formally expunged from the statute book, and along with it went the special powers imbued in U.S. commissioners to hear and decide fugitive cases.[38] The post itself remained intact, and the circuit court appointees continued to preside over cases involving an array of federal crimes, from mail fraud and counterfeiting, to deserters from sea-bound vessels, even as the imagined office of "fugitive slave commissioner" persisted in popular memory.[39]

Over the ensuing decades, however, views of commissioners who had operated under the 1850 law changed dramatically, profoundly shaped by the national discourse of reunion and the prevailing concept of legal formalism. As David Blight has demonstrated, white Americans' overwhelming impulse for reconciliation promoted a "segregated memory" of the nation's cataclysmic conflict, enacted through ritualistic battlefield reunions and padded reminiscences that bespoke brotherly affection between the blue and the grey. Carefully cordoned off from this col-

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[37] *Cong. Globe*, 38th Cong., 1st sess. 1710-1711, 3127-3129, 3191, 3360 (1864); D.A. Harsha (ed.), *The Life of Charles Sumner* (New York: Dayton and Burdick, 1856), 88-90; Sumner noted that he had been appointed a commissioner by Justice Joseph Story, and while he had "not very often exercised the functions of this post" his name was "still upon the list." Also see David Herbert Donald, *Charles Sumner and the Coming of the Civil War* (New York: Alfred A. Knopf, 1960; reprint, 2009), 69-70.

[38] *Statutes at Large*, 13:200.

[39] For examples of the other types of cases adjudicated by U.S. commissioners, see "Counterfeiters," Hartford, CT *Courant*, January 26, 1858; "More Arrests of Counterfeiters in Knox County," Chicago *Tribune*, February 22, 1859; "Before U.S. Commissioner Cohen," New Orleans *Times-Picayune*, April 30, 1845; "U.S. Commissioner's Office," New York *Times*, October 14, 1852; "Deserting Seamen," Chicago *Tribune*, August 29, 1862.

lective consciousness were the issues of slavery and race, sufficiently obscuring the war's origins so that Union and Confederate veterans could "clasp hands across the bloody chasm," in the famous words of Horace Greeley.[40] Gazing back nostalgically, many white Americans conjured an idyllic picture of slavery and the antebellum era, leaving little appetite to rehash the virulent sectional strife of the 1850s, or recriminate commissioners for their role in returning individuals to bondage. This drive towards reconciliation fused with contemporaneous notions of legal formalism. The concept, which reached its zenith among legal circles in the late 19th century, maintained that judges were impartial arbiters, whose formal decisions were wholly divorced from any personal inclinations or the panoply of social and political forces swirling outside their courtrooms. According to this notion, judges did not create new law, but "discovered" already extant law, rendering judicial decisions akin to a "mechanistic act."[41]

As white Americans' selective memory-making sidelined issues of race and softened the popular memory of slavery, the concept of formalism encouraged a view of judicial officials as passive actors, shifting the onus for unpopular decisions from the "whims or caprice" of an indi-

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[40] David W. Blight, *Race and Reunion: The Civil War in American Memory* (Cambridge, MA: Harvard University Press, 2001), 2, 60, 126-128, 231-237.

[41] William M. Wiecek, *The Lost World of Classical Legal Thought: Law and Ideology in America, 1886-1937* (New York: Oxford University Press, 1998), 6-7, 64-122; Grant Gilmore, *The Ages of American Law* (New Haven, CT: Yale University Press, 1977), 36-39; Morton J. Horwitz, *The Transformation of American Law, 1780-1860* (Cambridge, MA: Harvard University Press, 1977), 253-266; Timothy Huebner pinpointed the use of legal formalism by Chief Justice Roger Taney's defenders in the 1870s. See Timothy S. Huebner, "Roger B. Taney and the Slavery Issue: Looking beyond—and before—*Dred Scott*," *Journal of American History* 97:1 (June 2010): 32-33; Robert Cover was the first scholar to explicitly apply the concept of legal formalism to fugitive cases in *Justice Accused* (1975). Writing in the midst of the Vietnam War, Cover attributes the Federal judiciary's "long tradition as executors of immoral law" to an embrace of legal formalism, of which he is highly critical. In antebellum America, he argues, judicial officers retreated into formalism when their personal beliefs clashed with Federal laws respecting slavery—a pattern Cover traces all the way to the draft laws of the Vietnam era. However, while Cover gestures to the role formalism played in the court room, notions of legal formalism proved incredibly influential in the battle over public memory that raged throughout the post-war period, as former U.S. Commissioners and their defenders sought to rationalize and justify their official acts. See Cover, *Justice Accused*, 149-193.

vidual to the law itself.[42] The result was a series of laudatory accounts which extolled former commissioners as fierce defenders of law and order, while taking pains to separate commissioners' enactment of their official duties from any personal inclinations towards slavery. The "villainous tribe of Commissioners" who had dominated the headlines of the 1850s were supplanted in the public consciousness by a coterie of restrained, honorable men, whose hands were tied by the fine print of the statute book.[43] Former Pittsburgh, Pennsylvania commissioner Jacob Sweitzer reasoned with an audience in 1868 that although the law was "repulsive… to me and my feelings as a man," he was bound "as an officer of the law" to execute it, "regardless of consequences to myself and of the opinions of those who opposed it."[44] Obituaries, often crafted by friends and admirers of former commissioners, followed a similar formula, heaping praise on the deceased for their "resolute" implementation of the law, irrespective of their personal sentiments.[45]

At times, post-war accounts went so far as to portray commissioner as victims, well-meaning public servants caught between the stipulations of the statue book and the demands of fanatical, uncompromising abolitionists. After former Alton, Illinois commissioner Levi Davis died in 1897, his friends rallied around his memory, eulogizing the former commissioner as a man of sterling anti-slavery credentials, despite his January 1853 decision to remand an alleged

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[42] Martin R. Delany, *The Condition, Elevation, Emigration, and Destiny of the Colored People of the United States, Politically Considered*, (Philadelphia: by the author, 1852), 154-155.

[43] "Another Deed of Darkness," *Pennsylvania Freeman*, December 11, 1851.

[44] "Speech of Gen. Sweitzer," Ebensburg, PA *Alleghanian*, October 1, 1868.

[45] For examples, see the obituaries of Commissioner George Pendleton Johnston (San Francisco, CA), "A Noble Man Gone," San Francisco *Examiner*, March 5, 1884; and Commissioner Philip A. Hoyne (Chicago, IL), "Philip A. Hoyne Dead," Chicago *Inter-Ocean*, November 4, 1894.

freedom seeker, Amanda Chavers, to slavery. Davis, his friends and colleagues explained, "was himself at heart an abolitionist, but he knew that when acting officially he was the mere agent of the law." Even as "every impulse of his nature revolted," and his "friends importuned him and a mob threatened him in behalf of the fugitive," Davis refused to budge.[46] Another recollection of Davis appeared two years later, under the provocative title "An Illinois Martyr." Equating Davis with Elijah Lovejoy—an anti-slavery printer from Alton who was murdered by a pro-slavery mob in 1837—the anonymous author boldly claimed that Davis was himself a "victim," ensnared between his duties as a federal official and the unrealistic demands of his anti-slavery neighbors. The account held up Davis as a "martyr," who suffered his "political death" on account of his "sense of official duty" and fealty to the rule of law.[47]

The same year Davis was touted as an "Illinois Martyr," in neighboring Iowa, the state's historical bureau printed a detailed recollection from the pen of George Frazee, the only published memoir from a former commissioner. Operating out of Burlington, Iowa, Frazee had heard the June 1855 case of an alleged Missouri freedom seeker named Dick. Writing 40 years later, Frazee portrayed himself as a dutiful officer of the law. He "of course" issued a warrant of arrest; and even when throngs of anti-slavery Iowans made their sentiments known, Frazee claimed that he was "not disturbed by the knowledge of the feeling evidently present," but was determined to pursue "the strictest interpretation and observance of law."[48] Frazee's own telling of the case relegated himself to a solely ministerial function, in much the same way that former Cincinnati,

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[46] "Touching Tributes," Edwardsville, IL *Intelligencer*, March 16, 1897.

[47] "An Illinois Martyr," St. Louis *Globe-Democrat*, July 8, 1899; also see Nathaniel B. Curran, "Levi Davis, Illinois' Third Auditor," *Journal of the Illinois State Historical Society* 71:1 (February 1978): 2-12.

[48] George Frazee, "The Iowa Fugitive Slave Case," *The Annals of Iowa* 4:2 (1899): 118-137.

Ohio commissioner John Ludlow Pendery recounted his tenure. In an unpublished autobiography authored in 1901, Pendery attributes his decision to release freedom seeker Rosetta Armistead in 1855 to a legal technicality, and similarly ascribes his February 1856 ruling to remand seven escapees to the documentation marshaled by the claimants. Although Pendery had previously voiced his aversion to slavery, these personal sentiments are noticeably absent from his memoir.[49]

By the 1890s, as commissioners' reputations were being refashioned and polished in the public eye, the first wave of scholars were beginning to assess the 1850 law. Heavily influenced by the national drive towards reconciliation, these historians carefully avoided meting out blame, instead seeking to foster a "comforting haze" more congenial to the spirit of reunion. In an ironic turn, the array of laudatory post-war accounts describing commissioners may also help to explain the former federal officers' conspicuous absence from the emerging scholarly literature. Notions of legal formalism, which these accounts had thoroughly embraced, cast commissioners as passive actors, on the one hand exonerating them of the guilt for returning freedom seekers, though in the process rendering them seemingly inconsequential figures. It was in this context that Wilbur Siebert, an ambitious professor at Ohio State University, started work on the first academic study of the Underground Railroad. His widely read volume, *The Underground Railroad from Slavery to Freedom* (1898), offered readers a highly romanticized portrait of its operations, privileging the efforts of white anti-slavery northerners while recounting an elaborate system of "conductors" and "depots" that stood ready to whisk freedom seekers away to safety. Commis-

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[49] John Ludlow Pendery Typed Autobiographical Statement, Century Chest, Clinton Special Collections, Tutt Library, Colorado College, Colorado Springs, CO; Pendery articulated his personal sentiments about slavery following a June 1854 case in which he remanded 9 freedom seekers, though he does not discuss this case in his memoir. See "The Law Maintained," New York *Observer*, July 6, 1854.

sioners, just decades earlier the bane of anti-slavery activists, make only a passing appearance in Siebert's tome. His otherwise detailed chapter on the fugitive slave crisis references just two of the law's enforcers—Bostonians Edward Loring and George Ticknor Curtis.[50]

Around the same time, another Ohioan by the name of James Ford Rhodes was crafting his mammoth seven-volume *History of the United States from the Compromise of 1850* (1893-1906), a series thoroughly imbued with the reconciliationist viewpoint. Eager to foster sectional unity, Rhodes displaces blame from human actors to the 1850 law itself. The statute, Rhodes maintains, was so harsh that it could never have been tolerated by antebellum northerners, much less meaningfully enforced.[51] Between Siebert's depiction of a lively Underground Railroad network and Rhodes's portrait of a law that was by its very nature a dead letter, the initial wave of scholars had pronounced the 1850 law a decided failure, even as they overlooked the statute's once notorious chief enforcers.

This remained the scholarly consensus throughout most of the 20th century, until Stanley Campbell's *The Slave Catchers* (1970) revisited the controversial 1850 law.[52] Contesting the no-

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[50] Wilbur H. Siebert, *The Underground Railroad from Slavery to Freedom* (New York: MacMillan, 1898), 251, 271; also see Blight, *Race and Reunion*, 231-237.

[51] James Ford Rhodes, *History of the United States from the Compromise of 1850* (New York: Harper & Brothers, 1893-1906), 1:185-188, 209-211, 222-223, 500-504; also see Blight, *Race and Reunion*, 357-358; Rhodes named just Loring and Curtis, and several decades later, Allan Nevins's multivolume history of the sectional crisis only mentioned Curtis. See Nevins, *Ordeal of the Union* (New York: Charles Scribner's Sons, 1947-1971), 1:389.

[52] Campbell's monograph did not appear in isolation, but can be situated within the broader context of a scholarly reassessment of the Underground Railroad, sparked by Larry Gara's *The Liberty Line* (1961). Gara's seminal work challenged Siebert's earlier rendering of a sophisticated and far-reaching Underground Railroad network, which Gara chalks up to mostly lore and legend, while casting doubt on the extent of white northerners' involvement. Campbell does not cite Gara's work, though he shares his interpretation that the generation of historians writing in the 1890s (particularly Rhodes) exaggerated the scope of anti-slavery sentiment among white northerners. See Larry Gara, *The Liberty Line: The Legend of the Underground Railroad* (Lexington, KY: University of Kentucky Press, 1961).

tion that the statute was never meaningfully implemented, Campbell suggests that scholars such as Rhodes and Allan Nevins overstated the extent of the northern public's backlash to the law. While many northerners expressed their disdain for the controversial statute, Campbell attempts to separate rhetoric from "active" opposition, asserting that "only a few citizens in isolated communities engaged in active opposition" to the statute. Consistent resistance, according to Campbell, emanated exclusively from small clusters of anti-slavery activists who were concentrated in a select few "geographic areas"—such as upstate New York, Ohio's Western Reserve and the immediate environs of Boston. Meanwhile, the vast majority of white northerners, he argues, placed the preservation of the Union ahead of any anti-slavery inclinations. Campbell goes so far as to claim that by mid-1851, which he notes as the law's most effective year on the books, the "tide had turned" against abolitionist "radicalism," a force "which threatened to tear the nation asunder," as white northerners overwhelmingly sided with the law and supported the compromise measures, albeit oftentimes reluctantly.[53]

Dividing the law's enforcement into two periods, Campbell characterizes the first period (spanning from 1850-1854) as a time when prevailing northern attitudes towards the law were "ambiguous" but "on the whole acquiescent." While acknowledging "occasional outbursts," Campbell maintains that for the most part, the law's enforcement proceeded "quietly and without fanfare," through both renditions and instances of recaption. Opposition to the law intensified in 1854, which Campbell attributes to two near-simultaneous events: the passage of the Kansas-Nebraska Act and the rendition of escapee Anthony Burns from Boston. Anti-slavery activists "exploited" these events, he claims, to cultivate public opinion against the law. Yet even during the

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[53] Campbell, *The Slave Catchers*, 7, 44-54.

second period of the law's enforcement (from 1854-1860), Campbell maintains that the fiercest opposition was still confined to well-known anti-slavery enclaves in the upper north.[54]

In assessing the law's effectiveness, Campbell departs from Rhodes, arguing that the 1850 law was faithfully enforced by U.S. commissioners. Campbell touts the "efficiency" of U.S. commissioners and the federal circuit courts, culling statistics to show that in the "great majority" of cases which came before commissioners (82.2%), alleged freedom seekers were remanded to the claimants. The monograph's central claim is grounded in a widely cited appendix, detailing some 332 fugitive cases (including documented instances of recaption) which occurred between 1850-1860. Crucially, however, Campbell distinguishes between faithful enforcement and overall effectiveness, asserting that the law was faithfully and "persistently" enforced by commissioners. When slaveholders made the trek north and sought out commissioners, Campbell claims, "most officers of the federal courts would go to almost any lengths to enforce the law." Out of 191 alleged freedom seekers who appeared before a commissioner or federal judge, Campbell finds that 157 (82.2%) were remanded. Yet he concedes that when compared to widely accepted estimates that some 10,000 or more freedom seekers successfully escaped during the decade, the law returned "only a small percentage" of escapees. Here Campbell stakes out his signature claim—the law's failure "cannot be attributed to [a] lack of enforcement," but rather to the more abstract reality that slavery was a "dying institution in the western world," coupled with the northern public's increasing anti-slavery sentiments.[55]

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[54] Campbell, *The Slave Catchers*, 44, 61-62, 69, 75-77.

[55] Campbell, *The Slave Catchers*, 7, 115, 132-134.

Despite his focus on enforcement—and the book's title, *The Slave Catchers*—Campbell provides surprisingly few details about these notorious federal officers. Throughout the text, he mentions just nine commissioners by name, but offers no biographical details, often foregoing their first names. The rendition hearings likewise receive scant attention, with Campbell often confining his cursory descriptions to a single sentence. Thus his bold claim that commissioners faithfully and promptly enforced the law rests largely on statistics, without any detailed analysis of what actually transpired inside the hearing room.[56] While Campbell stresses the 82.2% rendition rate, this thesis argues that such a figure is fundamentally misleading, only representative of a select cadre of commissioners operating in disparate locations. Southern dreams of a national rendition system hinged upon a vast network of enforcers, an imagined corps of prompt and compliant commissioners that never materialized. Instead, this thesis will suggest a more revealing statistic: that out of more than 300 U.S. commissioners active during the period of the law's operation (1850-1864), only around 30 ever presided over a fugitive case, a figure that speaks powerfully to the inadequacy of the law's primary enforcement mechanism.[57]

Although published nearly 50 years ago, Campbell's slim monograph has left a profound impression upon the historiographical landscape, cited more than 250 times, including in the work of a coterie of distinguished historians, such as David Potter, Michael Holt, Don Fehrenbacher and James McPherson.[58] Yet in recent years, Campbell's central claim has come under

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[56] Campbell, *The Slave Catchers*, 30-34, 101, 108, 153.

[57] This statistic comes from the survey of U.S. commissioners completed as part of this thesis project, which can be accessed at http://blogs.dickinson.edu/hist-wingert/uscommissioners/.

[58] The figure of 250 references comes from Google Scholar, in a search conducted on September 9, 2019. For more commentary on Campbell's weighty influence over the historiography, see Churchill, "Fugitive Slave Rescues in the North," 51-53, 73.

increasing scrutiny, as a new wave of scholars from the early 1990s onward have focused on anti-slavery resistance.[59] Stanley Harrold's *Border War* (2010) calls into question Campbell's portrayal of the Lower North as largely "acquiescent" to the 1850 law, by revealing the lengthy history of violent conflicts over slavery that raged along the north-south border. Refocusing scholarly attention to the contentious border region, Harrold "has flipped Campbell's geography on its head," in the words of one scholar.[60] Building on Harrold's work, Robert Churchill has broken new ground with his exploration of rescues and the cultures of violence that shaped the fugitive slave issue along the border region, exploring what he terms the "geography of violence," the landscape in which anti-slavery activists forcefully resisted efforts to apprehend freedom seekers. Emphasizing the depth and ubiquity of violent resistance, Churchill argues that Campbell's thesis "slights the determination of rural residents and of communities in the North to resist the recapture of their African American neighbors," while also glorifying the federal officers who supposedly "stood firm in the face of opposition from a minority of extremists." Rather, Churchill suggests, "it was the champions of the law who had become isolated by the late

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[59] See John Hope Franklin and Loren Schweninger, *Runaway Slaves: Rebels on the Plantation* (New York: Oxford University Press, 1999); David W. Blight (ed.), *Passages to Freedom: The Underground Railroad in History and Memory* (New York: HarperCollins, 2004); LaRoche, *The Geography of Resistance*; For a discussion of the recent historiographical developments in the Underground Railroad literature, see Scott Hancock, "Crossing Freedom's Fault Line: The Underground Railroad and Reentering African Americans in Civil War Causality," *Civil War History* 59:2 (June 2013): 169-205; Corey M. Brooks, "Reconsidering Politics in the Study of American Abolitionists," *Journal of the Civil War Era* 8:2 (June 2018): 291-317. For recent works focusing on the 1850 law through the lens of resistance, see Gary Collison, *Shadrach Minkins: From Fugitive Slave to Citizen* (Cambridge, MA: Harvard University Press, 1997); Albert J. Von Frank, *The Trials of Anthony Burns: Freedom and Slavery in Emerson's Boston* (Cambridge, MA: Harvard University Press, 1998); Steven Lubet, *Fugitive Justice: Runaways, Rescuers, and Slavery on Trial* (Cambridge, MA: Harvard University Press, 2010); Earl M. Maltz, *Fugitive Slave on Trial: The Anthony Burns Case and Abolitionist Outrage* (Lawrence, KS: University of Kansas Press, 2010); Angela F. Murphy, *The Jerry Rescue: The Fugitive Slave Law, Northern Rights, and the American Sectional Crisis* (New York: Oxford University Press, 2016).

[60] Harrold, *Border War*; Churchill, "Fugitive Slave Rescues in the North," 52.

1850s." Still, this wave of scholars has stressed resistance: Harrold's lengthy chapter on the 1850 law does not name a single commissioner, while Churchill mentions only Boston's Edward Loring.[61]

While Harrold, Churchill and others scholars have stressed the role of anti-slavery violence, Richard Blackett's recent work has shifted the historiographical focus from anti-slavery activists to freedom seekers themselves. In *The Captive's Quest for Freedom* (2018), the most authoritative treatment on the 1850 law to date, Blackett argues that freedom seekers themselves precipitated the intense struggle over the law, through continuing to escape and defying the coterie of federal officials and slaveholders intent on returning them to bondage. Their unflagging resistance drew considerable attention to the law, enraging its supporters while forcing previously ambivalent white northerners to reconsider their own complicity in upholding the institution of slavery.[62] Placing enslaved people and free black activists squarely at the center of the struggle over the law, Blackett foregrounds the numerous rescue attempts, both successful and botched, which rocked the law's enforcement throughout the decade. While Campbell largely dismisses the slue of attempted rescues as "occasional outbursts," Blackett contends that these overt defiances of federal authority—even when unsuccessful—proved crucial to the law's ultimate undoing. The unceasing campaign of resistance waged by escapees and free African Americans, Blackett argues, "pushed the system to overreact and employ increasingly draconian methods." These "draconian methods"—ranging from predawn hearings to costly armed escorts—ended up backfiring. The appearance of "heavy handedness" on the part of the federal government to ap-

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[61] Harrold, *Border War*, 139-156; Churchill, "Fugitive Slave Rescues in the North," 52-59, 62-63; Churchill, "When the Slave Catchers Came to Town," 514-518, 534-537.

[62] Blackett, *The Captive's Quest*, xi, 460.

pease slaveholders, he maintains, ultimately "alienated" increasing numbers of white northerners.[63]

Between exerting pressure on commissioners and forcible rescue attempts, Blackett argues that the spirited efforts of anti-slavery activists ultimately took a heavy toll on the law's effectiveness. In the face of fierce anti-slavery resistance, circuit court judges, tasked with appointing commissioners, struggled to find willing applicants. Anti-slavery resistance intimidated many potential appointees, leaving "large swaths" of the North without any commissioner, Blackett observes, severely crippling efforts to enforce the controversial law. In doing so, Blackett further complicates Campbell's famous thesis of faithful enforcement. While Blackett agrees with Campbell's figures, he actually expands upon the number of cases identified by Campbell—though he only provides statistics for the first 15 months of the law's operation, from September 1850-December 1851. During those tumultuous 15 months, Campbell pinpointed the number of cases at 110, while Blackett's count is significantly higher, at 147. Importantly, Blackett's tabulation incorporates successful escapes and rescues from federal custody, along with alleged fugitives who were remanded, but later purchased and manumitted by anti-slavery activists, offering a more holistic picture of how the law's enforcement proceeded in the face of anti-slavery resistance. While he does not offer similarly detailed statistics for the entire decade, Blackett argues

[63] Blackett, *The Captive's Quest*, 56-69, 67-69, 421-427, 459; Campbell, *The Slave Catchers*, 61.

that the number of successful renditions pales in comparison to the many more freedom seekers who managed to elude authorities.[64]

Crucially, Blackett distinguishes between the law's operations as a whole and the actions of individual federal officers. While he argues that anti-slavery resistance caused the circuit courts to fall significantly shy of their quota for commissioners, Blackett claims that most appointments after September 1850 were "based on political considerations" and the understanding that the appointee would be friendly to the law's enforcement. Yet he emphasizes that the law's first months on the books were clouded by unanswered questions about the extent of commissioners' powers. As a result, "many flew by the seat of their pants," discovering ad hoc ways to "put their own stamp on the law" and "interpret its clauses in ways they thought best guaranteed its enforcement." Although his focus remains on the agency of freedom seekers and free African American activists, Blackett describes numerous hearings under the law, and in the process identifies 21 commissioners. The most vexing part of the law for commissioners, according to Blackett, was the provision in Section 10 outlining how slaveholders should obtain an affidavit describing the alleged fugitive. In their efforts to thwart the law, anti-slavery lawyers routinely objected to claimants' affidavits, and many fugitive cases ultimately hinged on the legitimacy of the affidavit, or the veracity of its description. Pushing aside these "stumbling blocks," Blackett

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[64] Blackett, *The Captive's Quest*, 56-64, 69-70, 458-459; Blackett breaks down this figure into 45 instances of recaption without a hearing; 53 renditions after a hearing; 16 successful escapes; 17 individuals rescued from federal custody; seven who were remanded but purchased and restored to freedom; another seven who were released by commissioners; and finally two individuals who were purchased before they could be remanded.

stresses that commissioners possessed and frequently invoked their "untrammeled powers" to quash any resistance efforts.[65]

Blackett's focus remains on resistance, illuminating how the law worked through the lens of freedom seekers. However, there remains more to learn about the law's operations through a study of its chief enforcers. Historians have traced the steps of anti-slavery northerners to public meetings where the law was denounced, and the paths of the enslaved as they tread precariously across a free soil landscape, a geography historians now mostly agree was defined in large part by anti-slavery violence. Constantly looming over these movements are the U.S. commissioners charged with the law's implementation, though they remain largely out-of-focus. Building on recent scholarship, and Blackett's work in particular, this thesis engages a variety of untapped sources—including caches of commissioners' extant papers, hearing transcripts and other official correspondence—to unearth new insights about the law and capture a clearer picture of the human reality behind its enforcement.

This picture is often chaotic and messy, laying bare the dizzying effects of anti-slavery resistance that time and again left commissioners frustrated and exasperated. Understanding the law's enforcers as human actors does not call for sympathy, but rather adds new depth to our histories of the 1850 law, revealing how the controversial rendition system actually functioned on the ground. For instance, Blackett briefly writes about the contingent of enslaved Missourians whose escape precipitated the December 1854 fiasco in Chicago.[66] Yet examining the incident through the lens of the law's enforcers brings into focus a whole new set of dynamics: the federal

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[65] Blackett, *The Captive's Quest*, 52-64.

[66] Blackett, *The Captive's Quest*, 145.

officers' abysmal failure, the Missouri claimants' frustration, the efficacy of local resistance and the cries of nullification it sparked among disaffected southerners. On paper, the federal enforcement mechanism was indeed draconian—though its implementation was overseen by a human enforcement apparatus, replete with failings and limitations that bring into stark relief the power of anti-slavery resistance.