

**N**orth Carolina Whig Congressman Samuel Tredwell Sawyer, the equivocal “Mr. Sands” of Harriet Jacobs’s autobiographical *Incidents in the Life of a Slave Girl* (1861), brought his slave John S. Jacobs to attend him on his 1838 wedding journey from Washington, D.C., to Chicago.<sup>1</sup> Sawyer, aware of the growing antislavery activism targeting slaves brought into free states as he and Jacobs crossed from slaveholding Baltimore into free Philadelphia, directed the slave: “‘Call me Mr. Sawyer; and if anybody asks you who you are, and where you are going, tell them that you are a free man, and hired by me.’” Once in New York City, Jacobs slipped away from the Astor House Hotel and boarded a boat headed to New Bedford, Massachusetts. His sister Harriet Jacobs would remain confined in their grandmother’s suffocating crawlspace for another four years until, certain of her children’s safety, she too risked escape. Although reunited with kin on Northern soil, Harriet lived in constant fear of recapture as a fugitive slave until her mistress Cornelia Grinnell brokered, explicitly against her wishes, her legal freedom. Her children and brother, however, were free from such fears as they had been brought into the North legally, with a master’s consent. *Commonwealth [of Massachusetts] v. Aves* (1836), the most forceful application of *Somerset v. Stewart* (1772) in U.S. courts, determined in legal theory if not always in practice the emancipation of slaves like John who had not, like Harriet, “run from any Slaveholding State, being brought into the Free States by [a] master.”<sup>2</sup>

Antislavery activists in the 1830s began to argue that the unrestricted travels of slaveholders allowed, in practice, the introduction

of slavery into free states.<sup>3</sup> States like Pennsylvania and New York, for example, offered traveling slaveholders the protection of sojourner and transit laws until 1847 and 1841, respectively, while New Jersey granted them unlimited rights of transit and sojourn until 1865.<sup>4</sup> Massachusetts, through the powerful agency of the Boston Female Anti-Slavery Society (BFASS), pioneered the rejection of this right to free travel as it instigated freedom suits on behalf of slaves brought into the state beginning with *Aves* (*IU*, 101). Sawyer's precautionary demand that John Jacobs masquerade as a "free man" indicates the increasing adoption of the *Aves* precedent through court cases, legislation, and constitutional provisions in other free states. Statistics of these freedom suits are difficult to determine given that many did not make their way before higher courts or into court reports.<sup>5</sup> However, those cases identified and drawn from pamphlets, magazines, law journals, newspapers, and casebooks arguably compose a loose genre of anti-slavery literature charting the struggles of jurists, slaveholders, free blacks, and abolitionists as they confronted the predicament of slaves in free states. Was the slave free by virtue of transit upon Northern soil or did slave law follow her into a free jurisdiction? Literary and cultural scholars often turn their gazes upon the fugitive's clandestine movement and criminal flight, yet they tend to overlook the complex ways transiting slaves like John Jacobs more profoundly challenged the cultural logic of slavery and freedom. While recent work has begun to examine slave resistance in forms of mobility that did not necessarily result in escape, including *marronage*, truancy, absenteeism, and "lying out," scholars have paid less critical attention to those enslaved nurses, waiting maids, and valets who accompanied traveling and migrating slaveholders into free jurisdictions.<sup>6</sup>

This essay reconstructs a number of these as-yet-untold stories through popular literature, newsprint, and legal pamphlets to explore what abolition's liberal imagination occluded. It places key historical figures such as Harriet Jacobs, Sojourner Truth, Lemuel Shaw, and Isaac Knapp in the center of the literary and cultural history of U.S. antislavery alongside the many unknown slave petitioners whose stories lived and quickly died in the characteristic ephemerality of newspaper print. By examining the complex ways legal discourses circulating in antebellum newsprint constituted the agency and subjectivity of slave petitioners, this essay offers a more critical and historically embedded understanding of the freedom so commonly cele-

brated in the fugitive slave narrative. William Andrews contends that freedom “as a theme and goal of life” uniquely characterizes the slave narrative. The genre’s paradigmatic *Narrative of the Life of Frederick Douglass* (1845), for example, charts the enduring physical and psychological struggles of a lone male slave to remake himself, at all costs, into an autonomous free black subject. What kinds of critical lacunae have such hermeneutics created in terms of identifying other texts of resistance and agency, especially given the “recovery” of slave voices in early African American literary studies? While feminist literary scholars and historians have addressed, in various ways, the sexual ideologies created and sustained under slavery and slave women’s fictions of self-fashioning, there is still a dearth of work that, to borrow Jenny Sharpe’s words, “tell[s] a gendered story of slavery.”<sup>7</sup>

Beleaguered slaveholders, in response to *Aves*, began to recognize slave kinship in informal and complex ways to ensure the return of their slave attendants, binding them to slavery with those tenuous social attachments that helped buffer them from brutalization. The construction of black subjectivity within antebellum jurisprudence and cultural productions, as Saidiya Hartman reminds us, was premised upon forms of violence and domination that simultaneously subordinated and constituted the partial humanity imputed to the enslaved: the slave’s double character as property and person.<sup>8</sup> John Jacobs’s recognition that “there was my sister and a friend . . . at home in slavery,” according to his autobiographical “A True Tale of Slavery” (1861), was the only misgiving that seriously tested his resolve to leave Sawyer once in the North. The journey to liberation and autonomy demanded from the freedom seeker fundamental forfeitures. Jacobs had first to forgo these ties to remake himself into a free subject even though a number of slave attendants, often women and children, refused to accept the terms of such a compromised freedom.<sup>9</sup> Northern travel threatened these reluctant beneficiaries of antislavery activism with unwonted severance from people and place, unexpectedly, in the guise of liberal benevolence. Antislavery organizations like the BFASS found themselves baffled by slave petitioners who stubbornly refused to relinquish kin for the “gift” of Northern freedom. The following Massachusetts freedom suits present a critical alternative both to the abolitionist plotting of freedom and the conventionally masculine paradigms of resistance proffered by the criminal agency of fugitive flight.<sup>10</sup> They challenge the masculine trajectory of

fugitive individualism found in John Jacobs's narrative and illustrate some of the complex ways enslaved women and children negotiated the unexpected predicaments that the law of freedom created in their lives.

### Slave Children before the Massachusetts Courts

"Hot weather," Harriet Jacobs dryly noted, brought out "snakes and slaveholders," prosperous planters who "swarmed" Northern towns to escape the sweltering miasma of summers south of the Mason-Dixon Line. Mary Slater made the long journey from New Orleans to Boston to visit her father, Thomas Aves, in the summer of 1836. Departing on a short trip to nearby Roxbury, Slater left her six-year-old slave girl Med in Aves's custody with the understanding that she would later retrieve the child and return to New Orleans.<sup>11</sup> The racially integrated BFASS, during Slater's absence, instigated a suit against Aves for restraining Med against her will. The figure of the slave child Med, like the sentimentalized figures of Harriet Beecher Stowe's Evangeline St. Clare or Louisa May Alcott's Beth March, stimulated a range of powerful emotions on the part of the BFASS, which authorized its reform-based activism in the name of social mothering and republican motherhood.<sup>12</sup> *Commonwealth v. Aves* was initially brought before Judge Samuel Wilde who, in acknowledgement of its significance, continued it one week later before the full court, which included Chief Justice Lemuel Shaw (Herman Melville's father-in-law) and Justices Samuel Putnam and Marcus Morton.<sup>13</sup> Local newspapers such as the *Boston Post*, *Boston Daily Advertiser*, and *Boston Gazette* carried detailed accounts of Med's case, and Isaac Knapp, copublisher with William Lloyd Garrison of the *Liberator*, collected the complete arguments, writ of habeas corpus, and Shaw's opinion into the *Report of the Arguments of Counsel, and of the Opinion of the Court, in the Case of Commonwealth v. Aves* (1836).<sup>14</sup> Such legal pamphlets, predominantly written and published by abolitionists, performed certain forms of cultural work within the broader abolitionist project as they helped shape the public knowledge of these rulings and the reception of slave petitioners as freedom seekers. Political imperatives inevitably made legible only those stories favorable to the antislavery campaign as legal pamphlets, reports, and periodical accounts entered into circulation within North American and transatlantic abolitionist communities.

The litigation in *Commonwealth v. Aves* over Med's status precariously balanced questions of choice and coercion, freedom and enslavement, and kinship and alienation in unexpected and troubling ways. Med's freedom rested upon the key distinction between voluntary and involuntary mobility as it mapped ontology onto geography in a manner that paradoxically stripped the slave of her social agency. While the Constitution's Fugitive Slave Clause, enforced through legislation passed in 1793 and 1850, fixed fugitive flight as a crime punishable by recapture and rendition, there existed no comparable regulations for those slaves who traveled to free jurisdictions with a master's consent. The slave became free, according to the legal reasoning in Med's case, because of the actions of the mistress rather than the slave. Celebrated antislavery lawyer Ellis Gray Loring strategically argued that Med was not a fugitive slave. She had not traveled to Boston with the intent to escape; however, she was detained in Boston against her will based upon the conclusion set in the celebrated British civil case *Somerset v. Stewart* that transit upon free soil had emancipated her. In other words, the antislavery counsel had first to prove that Med was will-less (as a transiting slave) in order to assert her willfulness (as a free subject) in accordance with many free states' personal liberty laws. These statutes, effective in some form in most Northern states from 1780 to 1861, were designed to protect free(d) black citizen-subjects from forcible kidnapping and reenslavement. Med's petition was eventually successful precisely because she was not a fugitive. Unlike the fugitive's fixed criminal will, contestations over transiting slaves largely redeployed the legal logic set in the infamous *State [of North Carolina] v. Mann* (1829), which defined the slave as "one who has no will of his own; who surrendered his will in implicit obedience to that of another." Slavery was based upon this idea of total power, and the slave as an extension of the master's will was the sine qua non of antebellum slave law.<sup>15</sup> Loring's argument developed logically from this proslavery doctrine as he represented Med's mobility as an extension of her mistress's will to travel. The court ruling, likewise, held Slater responsible for freeing Med.

Freedom suits proceeded under the tacit assumption that the slave petitioner became a willful free subject once brought onto Northern soil; they illuminate the contradictory status of slaves like Med who were caught, quite literally, in between freedom and bondage. In its coverage of *Aves*, the black newspaper *Colored American* stressed

Loring's rather peculiar clarification of "willfulness": "a slave brought into the state *voluntarily* by the master, is free—The master cannot take him back, *without his consent*." Such countervailing fictions of slave will were particularly troublesome in this case given that Med was a minor and therefore too young "to have any will or give any consent." Antislavery activists and organizations like the BFASS often cited the youthful naïveté of their child petitioners as justification to intercede on their behalf as they endorsed litigation that, as in Med's case, blurred the legal distinction between children and adults.<sup>16</sup>

Loring's formal argument skillfully finessed this legal quandary by offering a compelling counterfactual claim that emphasized anti-slavery politics over a long-standing principle of interstate comity. He rhetorically inferred Med's unwillingness to return with her mistress: "If she were able to form an intelligent wish, we are bound to presume she would prefer freedom to slavery."<sup>17</sup> Loring's counterfactual reasoning, an instance of what Pierre Bourdieu describes as the "law's elasticity," conjured into being notions of "personal volition," "choice," and "voluntary exchange" central to the emerging contractual logic of U.S. liberalism, as the litigation sought to represent its slave petitioner as a willful agent free of coercive restraints.<sup>18</sup> Reciprocity and voluntary exchange based upon self-ownership ideally define contract as a social relation antithetical to the coercive proprietary relations of enslaved labor. Contract was the dominant metaphor for freedom in the postbellum United States as it idealized, according to Amy Dru Stanley, the "ownership of self and voluntary exchange between individuals who were formally equal and free." Intimations of contract theory's contradictory liberalism, however, can be found in these earlier antebellum texts as both masters and legal counsels sought to locate free will squarely within the constraints of both slave and minor status. Freedom of will was central to U.S. law and its ideology of individualism, and the countervailing fictions of will in Loring's argument were provoked by the incorporation, in legal form, of the "contradictions of a slave society in a bourgeois world."<sup>19</sup> The all-too-common depictions of slave children like Med as willful agents of free choice in legal and popular rhetoric illuminate the ideological paradoxes underpinning the increasingly liberal antebellum North.

Benjamin Curtis, who later offered one of the two dissenting opinions in *Dred Scott v. Sandford* (1857), defended the rights of traveling slaveholders to retain their slaves and minimized the difference

between fugitive and transiting slaves. In the pre-trial hearing, Curtis also “alleged . . . that a promise has been given to the mother that her child should be returned to her” and pleaded that keeping Med from her mother was an act of “inhumanity.”<sup>20</sup> He invoked the sentimental rhetoric of “slave maternity,” better understood as the reproduction of property in the guise of social reproduction, to support a proslavery argument. Such a moral discourse of mother love in Slater’s defense corresponded with a developmental narrative of white guardianship over a childlike black populace, which proslavery and antislavery advocates utilized for often antagonistic political claims. Popular antislavery literature of the period such as Stowe’s *Uncle Tom’s Cabin* fashioned slaves as supplicants before white benefactors who would oversee their passage into proper rights-bearing subjects.<sup>21</sup> Loring also admitted to the “painful feature” of this case and even offered to compromise his petition in the event of Med’s manumission, for the “sake of placing her again in her mother’s bosom” was worth the “peril” of returning her to “the midst of a slave city” (*IU*, 108). Slater’s attorneys refused his offer even as they continued to stress the reunification of mother and child. One was so moved by Med’s circumstances that he, as Lydia Maria Child recorded, “wiped his own eyes at the thought that the poor little slave might be separated from its mother by mistaken benevolence.”<sup>22</sup> The final verdict in *Aves* freed Med, although it placed her in the chronically underfunded Boston Samaritan Asylum for Indigent Colored Children that BFASS members had recently established.<sup>23</sup> In a renaming ritual depicted in many slave narratives, the BFASS, which financed the freedom suit, changed her name to Maria Sommersett in honor of the application of *Somerset* in the final verdict (*IU*, 112 n.).

Samuel Slater, Mary’s husband and Med’s legal owner under the doctrine of coverture, publicly denounced Shaw’s ruling for permitting the law to intercede in a domestic matter, proclaiming that “[a] mother bond or free should be the representative of her own child, and surely it ought to be so in this land of liberty.” Slater, furthermore, condemned the “Abolitionists” who in an “act of barbarity . . . robbed the mother of her child, and to cap all . . . call it freedom—is it not freedom with a vengeance?” Slater’s indignant words offered a rather chilling critique of Med’s necessarily conditional freedom. In the effort to regain his chattel and fashion himself as a defender of black sentience, he appropriates an abolitionist discourse of sentimentalized

slave kinship to denounce the child's "theft" from her mother: "[T]he Abolitionists stated in this trial that slaves have no natural affections; this I pronounce to be a base slander upon the whole race."<sup>24</sup> Slater's critique of abolitionism was perhaps not so unusual for a New Orleans slaveholder since Louisiana's black codes "expressly prohibited" the separation and sale of children under the age of ten from their mothers and heavily fined those who brought motherless slave children into the state.<sup>25</sup> Given Med's youth, Slater may very well have purchased the two together in 1833 in compliance with the legislated "humanity" of these statutes even as they emboldened him to marshal out the pathos of severed maternal ties to mask the decree that children follow the condition of the slave mother.<sup>26</sup> Slater, in his public letter, demanded Med's return to New Orleans not out of crass pecuniary interests, but for the sake of her anguished mother whose "only anxiety and desire was for the child to remain under my protection, and be returned to her in the fall."<sup>27</sup> Members of the BFASS struggled against this competing claim of mother love as they were forced to publicly negotiate those deep cleavages in the "various inflections of patriarchalized female gender—'mother,' 'daughter,' 'sister,' 'wife,'" which as Hortense Spillers argues were not historically available to slave women.<sup>28</sup>

Slater was not alone in his moral condemnation of the BFASS as a divided public continued to dispute the merits of Shaw's ruling well after the trial. Some newspapers likened the abolitionist-instigated freedom suit to the act of criminal theft and kidnapping. The *Boston Transcript*, for example, accused the abolitionists of separating "mother and child in the name of *Freedom*": "Who will answer for the 'deep damnation' of the sin which separated—nay stole, a child, an infant in mind and in law, without the power of choosing between freedom and slavery under any circumstances, from its mother in the South, that she might be called free in the North?"<sup>29</sup> These proslavery accounts depict Med as a powerless victim of abolitionists more interested in antislavery politics than in honoring the true wishes of the helpless young girl. Such sentimentalized discourses of familial disunion were highly persuasive, and slaveholders quickly adapted the ideology of mother love to maintain control over those slave children they brought into the state. Alabama slaveholder Henry Bright, for example, brought a successful suit against an antislavery black Bostonian couple to regain custody of his five-year-old slave girl Elizabeth

in *Commonwealth v. John Robinson and Sophia Robinson* a short two years after *Aves*. Bright eloquently pleaded that he was “only actuated by a desire for the good of the child” whom he treated as “a part of the family” even though the black abolitionists “thought differently” and argued that Bright “ill-used” Elizabeth. His legal counsel convincingly dramatized, with sentimental flourish, the slave mother’s dying wish for Mrs. Bright to raise her orphaned child “as her own” before a courtroom “thronged with spectators.”<sup>30</sup> Ellis Loring, who had cast a skeptical eye upon Slater’s like-minded claims, found himself supporting a slaveholder who had taken out guardianship letters to formalize his “parental” relation. The slave woman’s historic inability to claim her progeny and become a “mother” was powerfully rearticulated to authorize the Brights’ claim upon Elizabeth in what judge, jury, and legal commentators all viewed as the compassionate fulfillment of a slave mother’s dying wish.<sup>31</sup>

Such sentimentalized legal rhetoric responded to the ideologies of republican motherhood that the BFASS took up with reformist zeal as the organization focused its energies upon safeguarding the welfare of slave women and children in particular. Secretary Maria Weston Chapman’s controversial annual report *Right and Wrong in Boston* stressed the need for legal protections that distinguished transiting slaves from fugitives with reference to the earlier case of the slave attendant Lucille (*WR*, 46–47). The organization “resolved to disinter the law of Massachusetts” once it heard that Lucille’s searchers threatened to “seize and carry off any colored woman they could find” (*WR*, 47–48). The BFASS strategically engineered the habeas corpus action in Med’s case to test the state constitution after several members posing as Sunday school teachers visited the Aves household. In conformity with prevailing notions of evangelical feminine advocacy, it unanimously resolved that its duty was to prevent “a violation of the rights of the child” (*WR*, 64).

Med’s situation, however, was not without its difficulties. When the group discovered that the child’s mother “was alive, in New Orleans,” the organization composed of self-described “mothers” was at first hesitant to “interfere with the paramount claims of maternal love” (*WR*, 64). It rationalized, however, that the mother, as a slave, had no legitimate parental claims, and Levin Harris, acting on behalf of the organization, secured the writ of habeas corpus noting that Med was a child with no known relatives (*IU*, 103). These instructions implied

the tacit understanding that slave women with little individual control over children were incapable of being good mothers as the BFASS assumed responsibility for Med's well-being in her mother's symbolic and physical absence. Such a conflicted sense of what constituted legitimate maternity was indicative of how middle-class BFASS members began to reshape their social activism specifically within the terms of mother love. Such allusions to imagined kinship, however, erased asymmetries of power even as they facilitated other forms of exclusion and violence under the aegis of (one form of) maternal affection. Given the antislavery argument against familial separation under slavery, such justifications betrayed anxieties over the meaning and shape of female antislavery activism even as the successful trial revealed the central role of this women's organization in the practices of antebellum lawmaking.

The child Med virtually disappeared from public record after the trial, yet she continued to live on as a legal precedent and in abolitionist literature that used her as the symbol of a new historiography of antislavery liberalism in the state.<sup>32</sup> The landmark antislavery victory in *Aves*, as David Delaney notes, was an assertion of state sovereignty that inscribed a different social meaning onto a state seeking to establish a civic mythos of a "historically free New England."<sup>33</sup> Med's case even found its way to Britain where the Glasgow Ladies Auxiliary Emancipation Society republished the account in *Three Years' Female Anti-Slavery Effort, in Britain and America* in 1837.<sup>34</sup> Shaw's judgment, as some papers noted, was a signal victory for antislavery activists as it established "the principle that slavery cannot exist in Massachusetts, even for a temporary purpose, and that a slave, voluntarily brought here by his master, becomes free, although slavery is recognized by the laws of the State of which the master is a citizen."<sup>35</sup> Shaw subsequently expanded the *Aves* precedent in *Commonwealth v. Potterfield* (1844) and *Commonwealth v. Fitzgerald* (1844) to cover those slaves brought into Massachusetts through the agency of ship captains or naval service (*IU*, 114–16). After Med's successful petition, the BFASS suggested in a letter to Loring that the 26th of August should henceforth be kept as a holiday, and the *Boston Daily Advertiser* cited Shaw's opinion as an instance of the exemplary liberalism of Massachusetts.<sup>36</sup> The BFASS offered its heartfelt thanks and pledged to "assume as their own, any expenses" Loring may have incurred during the trial. Loring, in turn, openly recognized the "female courage

and energy” of the organization and congratulated “female agency” for bringing about “a decision not exceeded in interest or real moment by any decision made within the last hal[f] century” (*WR*, 68–70).

This victory came at a moment in the BFASS’s history where the membership, now two hundred strong, powerfully channeled their energies towards a common goal before controversies over competing ideologies of womanhood and reform work factionalized the group, leading to its collapse in 1840.<sup>37</sup> Lydia Maria Child even reported that “Work-bags were manufactured in commemoration of little Med’s case, decided by Judge Shaw” and sold at the annual BFASS Anti-Slavery Fair held that winter.<sup>38</sup> The habeas corpus action in Med’s case had indeed offered Massachusetts an opportunity to formalize its antislavery position, and the Connecticut Supreme Court cited the “doctrine . . . decided by Chief *Justice Shaw*, of Mass., in the case of the slave child *Med*” as it deliberated upon Nancy Jackson’s successful freedom suit against Georgia slaveholder James Bulloch in 1837 (*IU*, 127). Emancipation was at the heart of racial thinking and meaning in the North, and perhaps more significantly, in the production of culture and social identity in New England.<sup>39</sup> These successful freedom suits helped constitute a regional imaginary of the free states north of the Mason-Dixon Line that sought to efface their recent and, some would argue, ongoing histories of slavery.

The antislavery campaign continuously mobilized Med to do symbolic work in the years following *Commonwealth v. Aves* although she underwent a telling transformation that draws attention to the predicament of consent finessed, but far from resolved, in her suit. By the 1850s, Med had become a touchstone of the Commonwealth’s liberal promise, which, as Wendell Phillips caustically protested before a crowded Faneuil Hall, was turned “upside down” as Boston was forced to “surrender” its first runaway under the new Fugitive Slave Act. Phillips cited the past heroism of Chief Justice Shaw who had once declared, like Lord Mansfield in the landmark *Somerset*, “the slave Med a free woman the moment she sat foot on the soil of Massachusetts.”<sup>40</sup> Phillips’s misnaming of Med as “a free woman” retrospectively transforms the child’s uncertainty into the willful desire of an adult woman. Such forms of consent within U.S. culture, as Gillian Brown notes, “rel[y] upon the presence of the disenfranchised, who mark the conditions from which a consensual society distinguished itself.”<sup>41</sup> Med’s case set a “liberal” norm in transit cases brought before

Massachusetts courts. This juridical understanding of will shaped the representation of slave petitioners in the popular press, particularly in those cases where the slave's actual desires did not coincide with antislavery expectations.

*Commonwealth v. Mary B. Taylor* (1841) freed another slave child Anson brought from slaveholding Arkansas to Massachusetts on the principles set in Med's case in spite of the boy's explicit wishes to the contrary. The *Liberator* reported that Anson was a "Negro boy about 9 or 10 years of age" who "was well and kindly treated; that he had father, mother, brothers and sisters in Arkansas."<sup>42</sup> Loring, reprising his role from *Aves*, joined well-known antislavery legal advocate Samuel Sewall to argue the case on behalf of their slave petitioner. When Taylor was brought before the Massachusetts Supreme Court, she, perhaps learning from Med's case, did not claim Anson as a slave, which strategically prevented a charge of intended kidnapping. Her counsel, Benjamin Franklin Hallett, summoned the boy's will in Taylor's defense and argued that Anson wished to remain with his mistress. Taylor would not return Anson to Arkansas "unless with his consent," and she was quite confident that the child would fully "consent to go with her and her family." Judge Shaw, in this instance, ruled against Taylor citing that Anson, unlike Med, was "in the point of law . . . of such tender years" that he has "no will, no power of judging or electing" and chose to disregard his "will and choice." Once Anson, according to the *Law Reporter*, "understood that he was . . . to remain here, he broke out into most impassioned entreaties to be permitted to go back and see his father and mother and brothers and sisters, weeping bitterly, and pleading with his guardian to let him go." The court suspended business while Anson "was led away, shrieking and begging to be suffered to go back to his father and mother."<sup>43</sup>

Despite the child's personal wish to return south, Shaw, perhaps defensively, offered a legal clarification: "The natural and strong feelings of a child, which induce him to cling instinctively to those whom he had been accustomed to regard as his natural protectors, cannot be regarded as the exercise of a legal will, or of an intelligent choice." In *re Francisco*, an earlier 1832 unreported case before the Massachusetts Supreme Court, Shaw had, in fact, allowed a slave boy, legally a minor, to choose his own judgment (*IU*, 101-2). Francisco expressed his personal wish to return to Cuba with his mistress, and Shaw thought him old enough to know his mind. Anson, however, was not permitted to

choose the terms of his freedom and, like Med before him, was freed and delivered into the hands of guardians. The separation of child from kin in Northern freedom suits was not uncommon, and Pennsylvania's commitment to antislavery legislation, for example, declared that a child born of a fugitive slave mother within the boundaries of the state was legally free, while the mother, as a fugitive, was subject to recapture and rendition (*IU*, 65). The freedom proffered in such antislavery legal actions marked the necessary violence and loss attendant upon certain forms of social inclusion as Med and Anson were required to forgo their actual kin ties to be remade into free Northern children.

### **Unruly Subjects of Antislavery Jurisprudence**

Popular antislavery literature was invested in the manufacture of acceptable forms of slave agency, and the epistemic violence of such literary and legal hermeneutics continue to mark our contemporary understanding of slavery and antislavery resistance. Activists began targeting women and children slave attendants brought into the state after *Aves*, deciding that acting in the slave's best interest meant, as it did in Anson's case, acting against their wishes. Children like Med and Anson, in particular, could be more easily positioned as the "spoken for" recipients of antislavery activism even as the political demands of the antislavery campaign and the evangelical perspectives of black and white abolitionists imposed restrictions on what could be considered appropriate forms of resistance.<sup>44</sup> Slave petitioners were fitted to the literary archetype of the freedom seeker whose actions reconfirmed the antislavery political mission and emphasized the North as the location of social change. The ventriloquism of the slave's will via legal hermeneutics found in Med's case was not unusual, since other slave petitioners negotiated their continual effacement in both proslavery and antislavery debates over what constituted their "true" desires. Their suits begin to illustrate how the liberal ideal of free will was not an abstract transcendent value but, more often than not, a rhetorical tool of ideological power. The law, as Ariela Gross argues, "created an image of blackness as an absence of will," yet the stories discussed below illustrate the complex ways law and literature also fashioned the particular forms of will and moral agency attributed to slaves.<sup>45</sup>

Antebellum abolitionist writers, activists, and jurists found them-

selves at a hermeneutical impasse when faced with cases like Anson's, in which the slave petitioner's desires challenged the unidirectional logic of freedom. Such contrary desires crystallized antebellum anxieties over the meaning of individual freedom in a liberal society. While we may never know what slaves like Med and Anson may have truly desired, we do have detailed records of what abolitionists believed those desires should have been. These writings assimilated their unruliness, often roughly, into the more acceptable yearning for freedom espoused in the slave narrative. We can see these discursive practices at work in Olive Gilbert's dramatization of Sojourner Truth's courtroom battles to reclaim her son Peter, who insisted, in the contrarian fashion of fictional Topsy, that he just "grow'd."<sup>46</sup> Peter's case, tried in 1828, predates the Massachusetts freedom suits of Med and Anson, yet it illustrates the discursive difficulties abolitionist writers and reporters faced when they represented slave petitioners whose willful "choices" did not correspond seamlessly with the ideologies of antislavery. The deceptive rhetoric of choice functions, Patricia Williams reminds us, as "the mediators by which we make all things equal, interchangeable."<sup>47</sup> Abolitionist writers such as Gilbert, the amanuensis of Truth's dictated *Narrative of Sojourner Truth: A Northern Slave* (1850), found themselves forced to rationalize or explain away those desires and choices at odds with their antislavery agendas.

Slavery legally denied Truth the right to "own" her progeny, yet she marshaled out the powerful trope of republican motherhood before the Northern courtroom to lay claim, like Nathaniel Hawthorne's Hester Prynne, to a "mother's right" to her child.<sup>48</sup> Five-year-old Peter's owner, anticipating the 1827 abolition act, had sold him into Alabama in violation of New York statutes prohibiting the sale of slaves into places where slavery continued to be legal. John Dumont initially sold Peter to Eleazer Gidney, who had intended to take him back to England as his attendant. Gidney instead sent Peter to his brother Solomon, who sold him to his brother-in-law, Fowler, an Alabama planter. Fowler, by all accounts, was a brutal master who viciously assaulted his slaves, irrespective of age or gender, and Truth would later discover ample signs of her child's physical abuse at his hands. The only means of retrieving Peter from Alabama and compelling Fowler to return him, as Truth reasoned, was through the New York courts. She immediately journeyed to the Ulster County Courthouse in Kingston, and, although illiterate, entered a formal complaint

against Solomon Gidney.<sup>49</sup> Truth, as Gilbert writes, sought not only the return of her son, but his immediate freedom: “It had ever been Isabella’s prayer, not only that her son might be returned, but that he should be delivered from bondage, and into her own hands.”<sup>50</sup> When Peter, now nearly seven, was brought back to New York for the initial hearing in the spring of 1828, he refused to recognize his mother and, sobbing hysterically, stated that he preferred to remain with his master. “[T]he boy cried aloud,” according to Gilbert’s biography, upon seeing Truth “and regarded her as some terrible being, who was about to take him away from a kind and loving friend. He knelt, even, and begged them, with tears, not to take him away from his dear master, who had brought him from the dreadful South, and been so kind to him” (*ST*, 35).

Peter’s reaction to his mother, whom Gilbert has represented in preceding chapters as selflessly acting in accordance with the feminine dictates of true mother love, is unexpected and shockingly at odds with the expectations of the antislavery audience to which Truth’s narrative, published in a decade that oversaw the dramatic increase of public interest in nonmilitant and nonthreatening literature in the fashion of *Uncle Tom’s Cabin*, was most likely directed.<sup>51</sup> In the attempt to resolve Peter’s unruly attachment to his master and, it would appear, his preference for slavery over freedom, Gilbert subtly begins to interpret the courtroom scene for her readers. When questioned about marks and bruises on his body, Peter claimed them as the result of accidents and, according to Gilbert’s narration, “looked imploringly at his master, as much as to say, ‘If they are falsehoods, you bade me say them; may they be satisfactory to you, at least’” (*ST*, 38). Gilbert, rather characteristically, enters into Truth’s narrative and “reads” Peter’s unspoken words to denounce the master’s manipulation. Her counterfactual assertion, “‘If they are falsehoods, you bade me say them,’” replicates the act of discursive violence—the ventriloquism of slave will—she accuses of the master. Because Peter cannot voice his true desire (to remain with his mother in freedom), Gilbert’s narrative, she implies, must speak for him.<sup>52</sup>

Judge Charles H. Ruggles, like Shaw in Anson’s trial, overruled Peter’s choice and released him to his mother’s guardianship only after discerning that Truth held no other interests than the maternal desire to reclaim her son. The judgment affirmed Truth’s maternal right to her child and “delivered” Peter “into the hands of the mother—

having no other master,” yet the child continued “begging, most piteously, *not* to be taken from his dear master, saying she was not his mother” (*ST*, 39). It took the collective efforts of Truth, her legal counsel, and the clerks to calm “the child’s fears, and . . . convinc[e] him that Isabella was not some terrible monster, as he had for the last months, probably, been trained to believe” (*ST*, 39). Peter’s continued preference for master over mother marks him as an unruly subject of freedom even as it powerfully bespeaks how the property relation superseded kinship in slavery. The narrative again attempts to resolve Peter’s inexplicable behavior with Gilbert, speculating that the child had been “trained” to disavow what should have been the “natural” bonds of affection between mother and child.

The often publicly understated conflicts between the desires of slave petitioners and those who sought to be their antislavery “benefactors” are perhaps best illustrated in the sensationalized events surrounding the 1848 Massachusetts Supreme Court case of another transiting slave: *Catharine Linda v. Erasmus D. Hudson*. Linda, most likely under the influence of her master W. B. Hodgson of Savannah, Georgia, brought suit against abolitionist Erasmus Hudson who had attempted to emancipate her according to the methods adopted in *Aves*. The case began, initially, as a conversation between Linda and a “fugitive slave in company with another family” at the Warriner’s Hotel in Springfield, Massachusetts, where the Hodgson household lodged on a summer tour of the North. When Linda was discovered to be “a slave travelling [sic] with her master” with an “expressed . . . desire to be free,” her predicament was communicated to sympathetic free blacks in Springfield who, in turn, notified Hudson and black anti-slavery activist David W. Ruggles.<sup>53</sup> When her unidentified fugitive informant was “called away by the family he was travelling [sic] with” before he could make a formal complaint, Hudson, who was active in both the Connecticut and American Anti-Slavery Societies, immediately followed Linda to Northampton where he brought a writ of habeas corpus on her behalf claiming that she was, as in Med’s case, “imprisoned and restrained of her liberty.”<sup>54</sup>

Linda was brought before Judge Charles August Dewey, who apprised her of her rights and “told her that she was free—that she would be protected in her freedom, if she chose to remain” in Massachusetts. The slave woman, however, “chose to remain” with her master. Aware of the damaging implications of Linda’s “choice,” Garri-

son's *Liberator* announced, rather defensively, "If one chooses to be a slave, they would not hinder them."<sup>55</sup> This representation of Linda's willful choice of slavery over freedom became the focus of many local and regional newspapers covering the story. The *New-Hampshire Patriot*, for example, exulted in this "abolition failure" and sympathized with Hodgson who "had with him a colored girl as servant, which some busy-bodies, led on by a fanatic named Hudson . . . wished to get away from him, because she was his slave at home." When the girl, according to the *Gazette*, was "taken before Judge Dewey . . . she decided, of her own choice, to remain with her master and family." The *New London (Conn.) Morning News*, in less partisan terms, simply stated that Linda "decided to stay with her master" while the *Norhampton (Mass.) Courier* offered a more elaborate account of what it represented as Linda's unambiguous exercise of will: "She replied that she was not restrained of her liberty, and that she was fully aware of her rights, and that she did not wish any further proceedings on her behalf." When Judge Dewey "told her that she was to act as she chose, freely and voluntarily," Linda "replied that she *chose to live with Mr. Hodgson*."<sup>56</sup>

These various news reports all chose to suppress a significant feature that shaped Linda's choice to return with her master and curtailed her acting immediately upon any emancipatory longings she may have had. As Hudson's prison letter carefully explains, "[h]er mistress told the officer that she had children, and she (the slave) said that she had father and mother, brothers and sisters—these were retained as hostages for her return."<sup>57</sup> Linda's few spoken words are characteristically mediated through others. Only Hudson's two prison letters consistently reference the constraints upon the slave woman's purported free will in her preference for slavery over freedom. Extant accounts of Linda's sensational case in both the proslavery and anti-slavery presses neglected to mention her deep attachments to those still held in bondage, and instead represented her in the liberal tradition as a social agent free of coercive restraints. Caught within a closed discourse of utter willfulness or will-lessness, slaves like Linda traveling in the North, who remained with masters or mistresses out of necessity, could only be understood as social agents who voluntarily chose slavery over freedom.

Antislavery literature commonly constructed slaves as socioethical beings active in obtaining their freedom, yet unruly adult figures like

Linda profoundly troubled such clear-cut archetypes. Her abolitionist advocates, with perhaps the exception of Hudson, were clearly unaccustomed to the different set of negotiations Linda's situation entailed. Supposing "the matter ended" with Linda's decision to return with Hodgson, abolitionists were apoplectic when Linda charged Hudson for false arrest and obtaining a writ of habeas corpus "without and against her consent." Damages were assessed at \$1,000 and Hudson, initially unable to meet the \$1,500 bail, was jailed in Springfield to await the October trial in Boston. The imprisonment of Hudson, according to one *Liberator* headline, was "the climax of slaveholding audacity on the soil of New-England." The outraged reporter continued that Hudson, "long a most faithful laborer in the antislavery cause, has been thrust into prison, ostensibly by a slave woman whom he kindly endeavored to set at liberty by habeas corpus, but really, no doubt by her ruffian master." The irony of Hudson's imprisonment was not lost on the *Liberator*, and Hudson, writing to Garrison from his Springfield jail cell, took this opportunity to critique the leniency of interstate politics in Massachusetts as he depicted his loss of liberty as an instance of Southern slaveholding aggression against the rights of Northern citizens upon their own soil.<sup>58</sup>

There is no doubt that Hodgson sought to use Linda's free status in the North as "a test case, to have the matter decided, whether 'slave property' was secure to its pretended owner in Massachusetts or not." We will perhaps never know whether Linda's lawsuit also masked another set of negotiations between the two. The antislavery press, however, continued to struggle with Linda's litigious agency as it sought to assimilate her to existing discourses and literary archetypes. Abolitionists countered proslavery accounts by stripping Linda of any willful intent in the legal events at hand. Newspapers like the *Liberator*, usually invested in certain forms of black agency, represented Linda as a passive victim entirely subject to the will of her master, while proslavery newspapers began to defend black civil rights as they attacked the misguided benevolence of Garrisonian abolitionism. Linda's suit was, in practice, a legitimate exercise of her right in Massachusetts to engage in litigation even though Georgia slave statutes, ironically, would have prohibited her from the same action. This "pretended regard for her rights" on the part of Hodgson and his proslavery supporters was correctly, as Hudson denounced, "pretence . . . and . . . mere *ruse* for a malicious persecution . . . . What regard has

Hodgson for the rights of Catharine Linda, when he claims her person and her services—her children, father, mother, brothers, and sisters as his property?”<sup>59</sup>

The *Liberator* (and even Hudson’s own letters) chose to overlook Linda’s “restoration” to legal personhood in Massachusetts and depict her as a will-less “chattel personal.” Later *Liberator* accounts further depicted Hudson’s imprisonment, inaccurately and provocatively, as the imposition of Georgia laws unilaterally seeking the “subjection” of “the white men of the North.” Few of these antislavery accounts could publicly acknowledge that Linda’s case against Hudson was based on the successful application of Massachusetts law, and was the logical conclusion drawn from the judgment in Med’s case. Such omissions disclose the widely held assumption that black freedom, once conferred, would be exercised in certain specific ways. The Northern boon of freedom came with certain implied duties and obligations. The *Hartford (Conn.) Freeman* was perhaps one of the few commentators on the case that underscored the ironic legality of Hudson’s “persecution,” yet it too represented Linda as a will-less non-agent: “The seizure and imprisonment of Dr. Hudson is nothing less than *persecution*, and it seems the more flagrant because it is done under the cover of the law, at the dictation of a Southern man-thief.”<sup>60</sup> Linda’s contrary exercise of her rights in the North could only be resolved in antislavery accounts by depicting her as a tool of slaveholding power rather than as a victim of the unexpected consequences of the very freedom they championed.

Such denunciations on the part of the white antislavery press indicate the inability of writers and editors to accept slave women like Linda as legal agents unless their willful desires corresponded with an antislavery agenda. While antislavery ideologies plotted freedom as the single goal of all slaves, they did not consider what Northern freedom might mean for women like Linda whose choices were not matters of legal abstraction. Harriet Jacobs’s *Incidents*, one of the most dramatic antebellum accounts of mother love, chronicles her seven-year entombment in a narrow crawlspace as she engineered her children’s freedom before risking her own escape. Abolitionist accounts almost univocally disregarded the painful contingency of Linda’s freedom upon separation from kin. When *Linda v. Hudson* came up for a second trial, the *Liberator* praised Hudson for his “discretion, moderation and prudence” throughout the ongoing litigation and for his

refusal to jeopardize “the rights of the friendless girl, who now, in the hands of an enraged master, is made the innocent occasion of thus annoying and injuring him.”<sup>61</sup> While doubtless Hodgson coerced Linda into making the allegations, these responses to Linda’s case illustrate more significantly the complex discursive processes by which slave women became legible as social agents. All antislavery accounts of the case were publicly convinced of Linda’s “innocence” in the legal dispute, yet they chose to deemphasize the adult woman’s litigious agency by depicting her as innocent “girl” or will-less child so that the moral condemnation of the act would be levied correctly at the willful slaveholder. Antislavery discourse transformed the unruly Linda into a “girl” even as the slave child Med, in reverse fashion, became an adult woman legally cognizant of her choice of freedom.

Unlike the comparable transit cases of Med and Anson and perhaps because Catharine Linda was an adult woman, antislavery activists found themselves at an impasse: the hermeneutic limit, it would seem, of an emergent liberal discourse of contract premised upon universalized notions of will and choice free of coercive restraints in a partially free world. The jury was likewise at an impasse, “unable to agree upon a verdict” when the case first came to trial in 1846 despite the eloquence of Wendell Phillips, consul for Hudson. At the second trial, Judge Wilde instructed the jury to deliberate only on the question of damages and it returned a verdict for Linda in the nominal amount of \$30.67 against Hudson. When Hudson appealed the case to the Massachusetts Supreme Court, Chief Justice Shaw declared that “the question should have been left to the jury,” set aside the verdict for the plaintiff, and granted a new trial, which most likely led to the eventual settlement. The *Liberator*’s coverage of Hudson’s second trial again relied upon a counterfactual suggestion in the effort to resolve the dilemma of choice and free will that Linda’s case introduced into the ideology of antislavery activism. “But suppose,” the *Liberator* pondered, that Linda had “wished to remain a slave. It appears to us that, under such circumstances, that would be a good kind of law which should decide that no human being has a *right* to be a slave.”<sup>62</sup> This statement’s misguided benevolence discloses the narrowness of abolitionist legal and literary hermeneutics, which could not grasp the terribly qualified life that abstract legal freedom offered to a slave like Linda.

The hypothetical suggestion to legally foreclose the “*right* to be

a slave" bespeaks the quandary of a juridical field unable, it would seem, to resolve the countervailing fictions of slave will. It also anticipated the 1857 case of the slave "girl" Betty, who like Linda before her, "chose" to return to Tennessee after "several months traveling North" freed her. Lewis and Laura Sweet traveled with their twenty-five-year-old slave to Canada and several Northern states before they arrived in Lawrence, Massachusetts, where the writ of habeas corpus was issued. When brought before Shaw, the Sweets, like Anson's mistress, declared that "they would cheerfully abide by Betty's own choice in the matter." Shaw dismissed the case after a private interview with Betty, secluded from any "restraint or intimidation" that her master might exert over her, revealed that she was "strongly attached to Mr. and Mrs. Sweet, and wished to remain with them; and that she had a husband living in Tennessee, from whom she was not willing, upon any consideration, to be separated." A crowd, thinking it was a fugitive slave case, gathered around the courthouse during the hearing. When Betty departed with her master and mistress, "several colored persons," reports the *Pittsfield (Mass.) Sun*, "made strong but unavailing appeals to Betty to accept the freedom offered to her." The *New York Journal of Commerce* chose to interpret Betty's case as a barbed commentary, in its words, "on the assertions of that class of negrophilists who maintain that all slavery is inhuman, and that the slave would, if left to themselves, murder their masters and assume their freedom." Betty, like the ungrateful slave of paternalist ideology, was an illustrative example of a "slave, [who] when offered freedom, has declined the gift and voluntarily chosen to return, with her master and mistress, to a state where she is held in slavery."<sup>63</sup> This article, like the various accounts of Linda's case, elides the mitigating conditions upon Betty's ability to choose and instead depicts her as a self-determining agent entirely free from duress of any kind.

Betty's story, however, ended neither with her return to Tennessee slavery nor with further antislavery litigation. The *Liberator* took much self-congratulatory pleasure in reprinting a notice a few months later reporting that "the slave woman, Betty, whose case caused some little excitement in this city some few months ago, and who refused to accept her liberty, after returning with Mrs. Sweet to New York, suddenly left her mistress whom she loved so much, took passage upon the under-ground railroad, and safely escaped to Cincinnati, where she was joined by her husband, who is a free man."<sup>64</sup> Betty eventually took

advantage of Northern law and geopolitics, in the fashion of Harriet and John S. Jacobs, to emancipate herself on her own terms. Freedom for Betty was meaningful only upon reunion with the kindred tie from whom she was “not willing, upon any consideration, to be separated.” This epilogue to Betty’s case also reveals the tactical negotiations and choices made and remade between slaves and masters once they left the familiarity of the plantation landscape. Freedom was a far more complex story than the one often told in antislavery literature. These variously “successful” freedom suits illustrate the complex ways legal and literary hermeneutics were brought to bear upon the geopolitics of kinship and property. The seemingly contradictory legal reasoning found in all of these cases emphasizes the extent to which these juridical texts, as Bourdieu argues, represent struggles to “impose a universally recognized principle of knowledge of the social world.”<sup>65</sup>

The question that faced these unwitting slave petitioners was not whether they saw freedom as liberating or oppressive, but the conditions freedom entailed and the contexts in which it was to be lived. The unexpected responses of petitioners like Anson, Catharine Linda, and Betty forcefully critiqued the terms and ends of “free choice” in a world where the project of universal freedom was far from complete. The circumstances of their freedom suits reveal the contradictions inherent within an emergent U.S. culture of contract and its valuation of free and voluntary choices as slaveholders, abolitionists, and slaves vied over the conditions of its possibility.<sup>66</sup> Their necessarily partial and fragmented accounts drew attention to the mechanisms of power at work within the antislavery imaginary and challenged what was made legible as escape. The destruction of the “slave family” was a cornerstone of antislavery protest, yet the abolitionists involved in these freedom suits found it difficult to recognize the claims of kinship that endured the violence of slavery as they advocated for a freedom that entailed further separation and loss.

The complex and often contradictory textures of desire, will, and choice found in these freedom suits taken as a genre of antislavery literature also insist that we critically revisit the fugitive slave narrative’s mythopoetics and the individualistic freedom it is primarily understood to champion. The slave’s knowledge of an imminent sale and separation from kin, as Walter Johnson notes, prompted many decisions to run away.<sup>67</sup> Flight, in these instances, preempted the inevitable destruction of kin ties, and what many saw as the more

debilitating uncertainty of interstate auction. The slave narrator's journey to "freedom," in this context, may be reread in ways that subtly undercut, with serious implications, the masculine self-fashioning so commonly espoused on antislavery platforms and in print. These earlier transit cases reveal how the fugitive individualism found, for example, in John S. Jacobs's narrative was necessarily enmeshed with gender and kinship in ways that were too often illegible in popular literature and law. For the many slave attendants who became the unwitting beneficiaries of antislavery activism, freedom did indeed beg the question that haunted James Pennington's autobiographical *Fugitive Blacksmith* (1850), published decades after his escape from Maryland slavery: "What will you do with freedom without father, mother, sisters, and brothers?"<sup>68</sup>

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## Notes

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- 1 See John Hope Franklin, *A Southern Odyssey: Travelers in the Antebellum North* (Baton Rouge: Louisiana State Univ. Press, 1976) for a broader history of slaveholding travelers in the North.
- 2 Harriet A. Jacobs, *Incidents in the Life of a Slave Girl*, ed. Jean Fagan Yellin (Cambridge: Harvard Univ. Press, 2000), 219; Jean Fagan Yellin, *Harriet Jacobs, A Life* (New York: Basic Civitas Books, 2004), 58, 191.
- 3 Christine MacDonald, "Judging Jurisdictions: Geography and Race in Slave Law and Literature of the 1830s," *American Literature* 71 (December 1999): 632.
- 4 Paul Finkelman, *Imperfect Union: Slavery, Federalism, and Comity* (Chapel Hill: Univ. of North Carolina Press, 1981), 76. Further references to *Imperfect Union* are to this edition and will be cited parenthetically in the text as *IU*.
- 5 Finkelman offers the most exhaustive survey of these Northern freedom suits although he too admits that it is "impossible to know the actual number of cases" (17).
- 6 See John Hope Franklin and Loren Schweninger, *Runaway Slaves: Rebels on the Plantation* (New York: Oxford Univ. Press, 1999) and Stephanie M. H. Camp, *Closer to Freedom: Enslaved Women and Everyday Resistance in the Plantation South* (Chapel Hill: Univ. of North Carolina Press, 2004).
- 7 William Andrews, *To Tell a Free Story: The First Century of Afro-American*

- Autobiography, 1760–1865* (Urbana: Univ. of Illinois Press, 1986), xi; Jenny Sharpe, *Ghosts of Slavery: A Literary Archaeology of Black Women's Lives* (Minneapolis: Univ. of Minnesota Press, 2003), xiii.
- 8 Saidiya V. Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America* (New York: Oxford Univ. Press, 1997).
  - 9 John S. Jacobs, "A True Tale of Slavery" in Jacobs, *Incidents*, 219. Elizabeth Johnston reveals that two-thirds of Massachusetts transit cases involved children whereas similar cases in other states involved primarily adult litigants and petitioners ("Choosing Freedom, Risking Slavery: African Americans, Antislavery Activists, and the Courts in Massachusetts, 1830–1860" [paper presented at the "Slavery and the Constitution" seminar, Institute for Constitutional Studies, George Washington Univ. Law School, Washington, D.C., 13–24 June 2005]).
  - 10 John Blassingame, the first scholar to use slave narratives as historical evidence, likewise represents the slave's "undying love for freedom" in the archetype of the male fugitive and in acts of physical confrontation between slave and master (*The Slave Community: Plantation Life in the Antebellum South* [New York: Oxford Univ. Press, 1979], 192).
  - 11 Jacobs, *Incidents*, 174; "The Slave Case," *New-Bedford (Mass.) Mercury*, 2 September 1836.
  - 12 Gillian Brown, "Child's Play," *differences* 11 (fall 1999): 82, 88.
  - 13 Paul Finkelman, *Slavery in the Courtroom: An Annotated Bibliography of American Cases* (Washington, D.C.: Library of Congress, 1985), 29; "From the *Boston Daily Advertiser*. The Slave Case," *Connecticut Courant*, 5 September 1836, 2.
  - 14 "The Slave Case—Mr. Loring's Argument," *Liberator*, 24 September 1836, 153–54; "Loring's Argument Continued," *Liberator*, 8 October 1836, 161–62.
  - 15 Eugene Genovese, *Roll, Jordan, Roll: The World the Slaves Made* (New York: Pantheon, 1974), 35, 47.
  - 16 "Connecticut Coming Round," *Colored American*, 16 June 1838; Brown, "Child's Play," 80.
  - 17 *Report of the Arguments of Counsel, and of the Opinion of the Court, in the Case of Commonwealth vs. Aves* in Paul Finkelman, ed., *Southern Slaves in Free State Courts, The Pamphlet Literature Series 1*, 3 vols. (New York: Garland Press, 1988), 1:436.
  - 18 Pierre Bourdieu, "The Force of Law: Toward a Sociology of the Juridical Field," trans. Richard Terdiman, *Hastings Law Journal* 38 (July 1987): 817. "To varying degrees," Bourdieu argues, "jurists and judges have at their disposal the power to exploit the polysemy or the ambiguity of legal formulas by appealing to . . . rhetorical devices . . . and a whole series of techniques like analogy and the distinction of letter and spirit, which tend to maximize the law's elasticity, and even its contradictions, ambiguities, and lacunae" (827).

- 19 Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (Cambridge, Eng.: Cambridge Univ. Press, 1998), 2–3; Mark V. Tushnet, *The American Law of Slavery, 1810–1860: Considerations of Humanity and Interest* (Princeton, N.J.: Princeton Univ. Press, 1981), 54.
- 20 “Case of the Slave-Child Med. *Report of the Arguments of Counsel and of the Opinion of the Court, in the Case of Commonwealth vs. Aves*” (Boston: Isaac Knapp, 1836), reprinted in Finkelman, *Southern Slaves in Free State Courts*, 436.
- 21 Thomas Ruffin’s infamous judgment in *State v. Mann*, for example, also spoke in terms of this analogy, which, according to Genovese, had substantially limited (to the point of negation) the rights and legal authority of both slaves and children before the antebellum courts (Genovese, *Roll, Jordan, Roll*, 35).
- 22 Debra Gold Hansen, *Strained Sisterhood: Gender and Class in the Boston Female Anti-Slavery Society* (Amherst: Univ. of Massachusetts Press, 1993), 17.
- 23 The Boston Samaritan Asylum was founded in April 1834, but by the following year, the managers had placed urgent advertisements in the *Liberator* soliciting funds to help house and maintain the seven children under their care (“Boston Samaritan Asylum for Indigent Colored Children,” *Liberator*, 16 May 1835). The asylum, according to an early promotional announcement, was designed to assume protection of colored children “whose parents are unable or unqualified to educate them.” Parents and relations of the children were expected to “resign all control over them” once they were placed in the asylum (“Notice,” *Liberator*, 27 September 1834).
- 24 “Refuge of Oppression,” *Liberator*, 15 October 1836, 165.
- 25 L. Moreau Lislet, *A General Digest of the Acts of the Legislature of Louisiana*, 2 vols. (New Orleans: Benjamin Levy, 1828), 1:101.
- 26 Henry J. Leovy, *The Laws and General Ordinances of the City of New Orleans* (New Orleans: E. C. Wharton, 1857), 269–70.
- 27 “Refuge of Oppression,” 165.
- 28 Hortense J. Spillers, *Black, White, and in Color: Essays on American Literature and Culture* (Chicago: Univ. of Chicago Press, 2003), 232.
- 29 Maria Weston Chapman, *Right and Wrong in Boston, in 1836. 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: BFASS, 1836), 67. Further references to *Right and Wrong* are to this edition and will be cited parenthetically in the text as *WR*.
- 30 “Trial for Kidnapping in Boston,” *New-Bedford (Mass.) Mercury*, 29 December 1837 and “The Kidnapping Case in Boston,” *New-Bedford (Mass.) Mercury*, 5 January 1838. In a statement newspapers omitted

- from their case reports, Stephen Burt, a former slave of Bright's, testified that Elizabeth's mother had, in fact, given her to a "colored fellow servant by the name of Eleanor" (Helen Tunnicliff Catterall, ed., *Judicial Cases Concerning American Slavery and the Negro*, 5 vols. [New York: Negro Universities Press, 1968], 4:501).
- 31 Spillers, *Black, White, and in Color*, 217–20.
- 32 Med may have been enrolled in one of Boston's public African American primary schools, the first of which was opened in Reverend Thomas Paul's Belknap Street Church on 7 August 1822. His daughter, Susan Paul, taught at the African School Number 2, and was one of the first African American women invited to join the BFASS (Lois Brown, "Introduction," *Memoir of James Jackson, the Attentive and Obedient Scholar, who Died in Boston, October 31, 1833, Aged Six Years and Eleven Months by his Teacher, Miss Susan Paul* [Cambridge: Harvard Univ. Press, 2000], 10). In a letter published in the *Liberator* (13 August 1836), Paul notes, "We have several school-mates who have been slaves, and we try to make them as happy as we can. We wish you could see how they try to learn, and how much they love our teacher. We should be glad if all the little slaves were in our school" (125).
- 33 David Delaney, *Race, Place, and the Law, 1836–1948* (Austin: Univ. of Texas Press, 1998), 54 and Joanne Pope Melish, *Disowning Slavery: Gradual Emancipation and "Race" in New England, 1780–1860* (Ithaca, N.Y.: Cornell Univ. Press, 1998), 7.
- 34 Glasgow Ladies' Auxiliary Emancipation Society, *Three Years' Female Anti-Slavery Effort, in Britain and America* (Glasgow, Scotland: Aird and Russell, 1837): 47.
- 35 "From the *Boston Daily Advertiser*. The Slave Case," *Connecticut Courant*, 5 September 1836, 2.
- 36 Ibid.
- 37 Hansen, *Strained Sisterhood*, 22.
- 38 Lydia Maria Child, "The Ladies' Fair," *Liberator*, 2 January 1837, 3.
- 39 Melish, *Disowning Slavery*, 8.
- 40 "Speech of Wendell Phillips, Esq.," *Frederick Douglass Paper*, 26 February 1852.
- 41 Gillian Brown, *The Consent of the Governed: The Lockean Legacy in Early American Culture* (Cambridge: Harvard Univ. Press, 2001), 14.
- 42 "Court Calendar," *Liberator*, 13 August 1841, 131.
- 43 "Commonwealth v. Taylor," *Law Reporter*, November 1841.
- 44 Sharpe, *Ghosts of Slavery*, 120.
- 45 Ariela J. Gross, *Double Character: Slavery and Mastery in the Antebellum Courtroom* (Princeton, N.J.: Princeton Univ. Press, 2000), 96.
- 46 Harriet Beecher Stowe, *Uncle Tom's Cabin, or Life among the Lowly* (New York: Penguin, 1981), 356.

- 47 Patricia J. Williams, *Alchemy of Race and Rights* (Cambridge: Harvard Univ. Press, 1991), 31.
- 48 Brook Thomas, "Citizen Hester: *The Scarlet Letter* as Civic Myth," *American Literary History* 13 (summer 2001): 193.
- 49 Nell Irvin Painter, *Sojourner Truth: A Life, A Symbol* (New York: Norton, 1996), 33–34.
- 50 Olive Gilbert, *Narrative of Sojourner Truth*, ed. Margaret Washington (New York: Vintage, 1993), 35. Further references to the *Narrative of Sojourner Truth* are to this edition and will be cited parenthetically in the text as *ST*.
- 51 Andrews, *To Tell a Free Story*, 179–82.
- 52 Such hermeneutics continue in a number of contemporary critical readings of Truth's text. Christina Accomando, for example, reads Truth's advocacy of legal agency as "revealing the law as both an agent of oppression and potential tool for resistance," yet attributes, in the fashion of Gilbert, Peter's unruly desires to the agency of his master: "Coached by his Southern owner, Peter repeatedly denies that Truth is his mother" (*"The Regulation of Robbers": Legal Fictions of Slavery and Resistance* [Columbus: Ohio State Univ. Press, 2001], 51, 59).
- 53 There are two competing accounts of the case in the *Liberator*. While Hudson's perhaps more reliable account describes an unnamed fugitive (identified in the trial simply as "one Ruggles") as the informant, another source identifies David W. Ruggles as the person who initiated contact with Linda ("Imprisonment of Dr. Hudson," *Liberator*, 19 September 1845, 151; "The Climax of Slaveholding," *Liberator*, 12 September 1845, 146; and "Dr. Hudson's Case," *Liberator*, 20 November 1846, 187).
- 54 "Imprisonment of Dr. Hudson," *Liberator*, 19 September 1845, 151.
- 55 "The Climax of Slaveholding," 146.
- 56 "Another Abolition Failure," *New-Hampshire Patriot and State Gazette*, 21 August 1845; "Curious Slave Case," *New London (Conn.) Morning News*, 13 September 1845, 2; and "Habeas Corpus-Slave Case," *Barre (Mass.) Patriot*, 15 August 1845.
- 57 "Imprisonment of Dr. Hudson," *Liberator*, 19 September 1845, 151.
- 58 "The Climax of Slaveholding," 146; "Another Chapter in the Slave Case," *Pittsfield (Mass.) Sun*, 18 September 1845; *Barre (Mass.) Patriot*, 12 September 1845; *New London (Conn.) Morning News*, 25 September 1845; "The Climax of Slaveholding," 146; "Imprisonment of Dr. Hudson," *Liberator*, 19 September 1845, 151.
- 59 "Letter from Dr. Hudson," *Liberator*, 3 October 1845, 159.
- 60 "Slaveholding Insolence," *Liberator*, 26 September 1845, 153; "Imprisonment of Dr. Hudson," *Liberator*, 26 September 1845, 154.
- 61 "Dr. Hudson's Case," 187. Hudson, unfazed by his ongoing legal battles, returned to his antislavery labors and was reported in the winter of 1845

- to be in pursuit of “Milly,” whose master Henry B. Goodwin, according to the *Liberator*, brought her “from the South” into Massachusetts where she had “fallen into the hands of the Goodwin family in Norton, where she is now deprived of her liberty” and “destined to be sent back again to slavery” (“A Case for Investigation,” *Liberator*, 12 December 1845, 199).
- 62 “Supreme Judicial Court,” *Liberator*, 29 May 1846; “Commonwealth v. Taylor,” *Law Reporter*, November 1841; and “Second Trial of Dr. Hudson,” *Liberator*, 14 April 1848.
- 63 “Betty’s Case,” *Monthly Law Reporter*, December 1857, 455–58; “A Slave Case,” *Pittsfield (Mass.) Sun*, 12 November 1857; “Betty’s Case,” 456; “A Slave Case.”
- 64 “The Slave Betty,” *Liberator*, 19 February 1858, 31.
- 65 Bourdieu, “Force of Law,” 838.
- 66 Thomas, “Citizen Hester,” 196.
- 67 Walter Johnson, *Soul by Soul: Life inside the Antebellum Slave Market* (Cambridge: Harvard Univ. Press, 1999), 23.
- 68 James W. C. Pennington, *Fugitive Blacksmith; or, Events in the History of James W. C. Pennington*, 3rd ed. (Westport, Conn.: Negro Universities Press, 1971), 39.