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A FEDERAL ASSAULT: AFRICAN AMERICANS AND THE IMPACT OF THE FUGITIVE SLAVE LAW OF 1850

JAMES OLIVER HORTON & LOIS E. HORTON*

William Craft was a slave in Macon, Georgia, apprenticed to a cabinet maker and mortgaged to a local bank to cover his master's debts. Ellen was also a slave and the daughter of her master, a white Georgia planter. When her father's white daughter, Ellen's half sister, married, Ellen was given as a wedding present to the young couple. William and Ellen met and fell in love in the 1840s. They both longed for the far-distant freedom they knew lay a thousand or more miles to the north, but for the moment at least, they found consolation in the sort of "marriage" that slaves might enjoy with their master's consent. By 1848, their minds set on escape, they worked out a daring plan, and on the day after Christmas they set it into motion. Critical to their scheme was the fact that Ellen, with her fair skin, straight raven hair, and Roman nose was easily mistaken for white. With her soft features, wearing men's clothing and tinted glasses, Ellen could pass for a young man. A sling around her right arm would explain her inability to sign any travel documents. A face wrap feigning a swollen jaw from a toothache hid her beardlessness, and William's presence as a trusted personal servant completed the picture. Ellen appeared to be a young Southern gentleman traveling to Philadelphia for medical treatment. Thus disguised, they boarded a train to Savannah and made their way by train and boat to freedom. In Philadelphia they contacted William Still and other men and women of the abolition movement who sheltered them for a time, but all knew that to be safe they must go farther north. Boston was the location settled on for their safe haven. As a center of antislavery activity far from the border with the slave states, the city had been as safe or safer than any in the country for fugitives seeking to avoid capture. Some said that Boston was as safe as Canada, and for two years the Crafts found it so. They felt

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free enough, in fact, to speak out in public meetings against the slave system and even to allow their names to appear in the federal census taken for the city. But a new federal law threatened the freedom of William and Ellen Craft and of every black American, whether fugitive slave or free-born.¹

This Article explores the impact of the Fugitive Slave Law of 1850 on the lives of the Crafts and other African Americans living in the North before the Civil War. It also examines how black people, working as individuals and in groups, responded to the new law and the threat it posed to the freedom of all African Americans, fugitives and free-people alike. These responses ranged from cooperation and self-help to migration and violence. In their reaction to what many viewed as an assault by the federal government, African Americans revealed much about the strength of their racial and national identity. Part I of this Article discusses the provisions of the Fugitive Slave Law of 1850. Part II examines the role that black youth played in antislavery resistance. Part III presents the case of prominent black abolitionist Henry Highland Garnet, his personal experience as a fugitive, and his opposition to the law. The militant community organization in defense of fugitives is the subject of Part IV, and Part V discusses black migration to Canada as a response to the Fugitive Slave Law. Part VI investigates the danger of kidnapping faced by northern free blacks. The issue of violence as a form of resistance to the law is discussed in Part VII, while the reemergence of emigration to Africa and the Caribbean is the subject of Part VIII.

THE FUGITIVE SLAVE LAW OF 1850

In the fall of 1850 President Millard Fillmore, a native of Buffalo, New York, signed into law the strictest fugitive slave measure ever enacted. The President was not totally comfortable with the law and wondered aloud about its constitutionality. He signed it into law as part of a broad compromise which he hoped would satisfy the Southern states and forestall a mounting sectional crisis.² The Fugitive Slave Law of 1850 expanded the power of slavery to reach into any state to retrieve those accused of fleeing from bondage. It provided that commissioners of federal circuit courts, or those acting under the authority of the federal superior court in the territories, could issue warrants under which a fugitive could be held and turned over to any claimant who could present

1. WILLIAM CRAFT, *RUNNING A THOUSAND MILES FOR FREEDOM; OR THE ESCAPE OF WILLIAM AND ELLEN CRAFT FROM SLAVERY* (London, Strand 1860); *see also* U.S. CENSUS OFFICE, *SEVENTH MANUSCRIPT CENSUS OF THE UNITED STATES* (1850).

2. ROBERT J. RAYBACK, *MILLARD FILLMORE: BIOGRAPHY OF A PRESIDENT* (1959).

convincing evidence that the prisoner was a runaway slave. A slaveholder might prove ownership of a fugitive by presenting an affidavit from a court in his home state providing a physical description of the runaway. If the description fit, the federal commissioner rendered the prisoner to the custody of the claimant who could then remove his human property from the state.³

The law further assisted in the capture of a fugitive, allowing federal marshals "to summon and call to their aid the bystanders . . . when necessary to ensure a faithful observance of the clause of the Constitution referred to in conformity with the provisions of this act . . ."⁴ The law provided stiff fines and imprisonment for those who obstructed the application of the law. The portion of the law which proclaimed that "all good citizens are hereby commanded to aid and assist in the prompt and efficient execution of this law, whenever their services may be required" led blacks to argue that under its provisions any citizen could be impressed into service as a slave catcher.⁵ The law also provided for federal funds covering much of the expense of recovering a fugitive. The rights and protections of those accused of being fugitives were further reduced by denying them the right to speak in their own defense, by making no provision for habeas corpus, and by not requiring that they be represented by counsel or receive a jury trial. It also seemed to favor the interests of the slaveholders by rewarding officials with \$10 if the accused was determined to be a fugitive and \$5 if not.⁶ Although the earlier Fugitive Slave Law of 1793 had given slaveholders the right to recover their property anywhere in the country, the new law greatly enhanced their power by striking down state efforts to protect the freedom of the accused fugitive. It meant that no place, not even Boston, was beyond proslavery reach.⁷

AFRICAN-AMERICAN CHILDREN AND THE FUGITIVE SLAVE LAW

The tightening of federal policy regarding fugitive slaves distressed African Americans and made the work of almost every community organization more difficult. Regardless of their formal focus, virtually all free black organizations opposed slavery and supported organized resist-

3. JANE H. PEASE & WILLIAM H. PEASE, *THE FUGITIVE SLAVE LAW AND ANTHONY BURNS: A PROBLEM IN LAW ENFORCEMENT* (1975).

4. Act of Feb. 12, 1793, reprinted in *CIVIL RIGHTS AND THE AMERICAN NEGRO: A DOCUMENTARY HISTORY* 127-33, 128 (Albert P. Blaustein & Robert L. Zangrando eds., 1968).

5. *Id.*

6. PEASE & PEASE, *supra* note 3, at 11-12.

7. *Id.*

ance to laws requiring fugitives' return. Early mutual benefit societies, like the African Union Society established in 1780 in Newport, Rhode Island or the African Society formed in 1796 in Boston, provided proper burials, administered the wills of their members, and cared for widows and orphans.⁸ In addition to concerning themselves with the financial needs of their free black members, they were also committed to the anti-slavery cause. These organizations linked the maintenance of a free society to abolition and the welfare of free blacks to the welfare of slaves, attacking the inconsistency of a "freedom loving" nation's toleration of slavery. In an *Essay on Freedom*, one member of the African Society of Boston attacked slavery and the hypocrisy of a people who "love freedom themselves . . . [but who] prevent [others] from its enjoyment"⁹

Even African-American children were enlisted in the antislavery cause, and for decades the cause of the slave and the fugitive from slavery had been an important part of their education. In youth associations in several northern cities, boys and girls debated the issues of racial justice and slavery and raised money for abolitionist activities. The Juvenile Garrison Independent Society, formed in Boston during the early 1830s, provided services to the local community and sponsored antislavery rallies and lectures.¹⁰

In New York, the organizational constitution of a similar youth group included a promise to work towards "the downfall of prejudice, slavery, and oppression"¹¹ At the New York African Free School a group of grammar school boys resolved not to celebrate the Fourth of July until slavery was abolished. Years later Alexander Crummell, who had been part of the group, recalled that "[f]or years our society met on that day [the Fourth of July], and the time was devoted to planning schemes for the freeing and upbuilding the race." The boys pledged that after their education they would "go South, start an insurrection and free our brethren in bondage."¹²

Black children in the Midwest had similar concerns. When students in Cincinnati's black schools were asked to write on the question, "What do you think *most* about?" the impact of slavery on their young lives was

8. Robert L. Harris, Jr., *Early Black Benevolent Societies, 1780-1830*, 20 MASS. REV. 603 (1979).

9. THE SONS OF AFRICA: AN ESSAY ON FREEDOM (1808) reprinted in EARLY NEGRO WRITING, 1760-1837, at 25 (Dorothy Porter ed., 1971).

10. JAMES O. HORTON & LOIS E. HORTON, BLACK BOSTONIANS: FAMILY LIFE AND COMMUNITY STRUGGLE IN THE ANTEBELLUM NORTH 32 (1979).

11. LIBERATOR, Apr. 19, 1834, reprinted in 1 A DOCUMENTARY HISTORY OF THE NEGRO PEOPLE IN THE UNITED STATES 152 (Herbert Aptheker ed., 1965).

12. ALEXANDER CRUMMELL, THE EULOGY OF HENRY HIGHLAND GARNET, D. D. PRESBYTERIAN MINISTER 25-26 (Washington D.C., 1882).

clear. One seven-year-old wrote of his hope that "we get a man to get the poor slaves from bondage." A twelve-year-old claimed to speak for the children and explained that "what we are studying for is to get the yoke of slavery broke and the chains parted asunder and slaveholding cease for ever."¹³

Like their elders, many of these young people spoke from personal experience and out of concern for friends and relatives held in bondage. A ten-year-old wrote, "I have two cousins in slavery who are entitled to their freedom." He was deeply concerned because slaveholders "talk of selling them down the river" and asked the reader, "If this is the case what would you do?"¹⁴ Another child wrote of his own experiences in slavery and explained that he, his mother, and stepfather had all known bondage. Clearly, slavery was no abstract evil to these children. It was personal and was associated with the misery of loved ones. Like their parents, young blacks wondered "how the Americans can call this a land of freedom where so much slavery is."¹⁵

HENRY HIGHLAND GARNET: A CASE STUDY OF A FUGITIVE SLAVE

Many young people with this experience and education became the abolitionists of the 1840s and 1850s. For William Cooper Nell, Henry Highland Garnet, William H. Day, David Ruggles, and other antebellum black leaders, these groups were their first training grounds for social protest. They were generally encouraged by their parents, their teachers, and other adults active in the cause. For example, Charles C. Andrews, a teacher at the New York African Free School, was also a founder of the New York Society for the Manumission of Slaves. Along with the strong academic program at the school, he taught his students about the importance of freedom.¹⁶

Blacks who grew to maturity under the shadow of the eighteenth-century law, even if they themselves had not been threatened with capture, were aware that both fugitive slaves and free blacks were in danger. Many, like prominent black abolitionist Henry Highland Garnet, had personally experienced the Fugitive Slave Law's effects, and this influenced their response to the more threatening 1850 law. Garnet was born a slave in Maryland but had escaped to freedom in New York City with

13. *Negro Children Speak, 1834 in A DOCUMENTARY HISTORY OF THE NEGRO PEOPLE IN THE UNITED STATES* 157, 158 (Herbert Aptheker ed., 1965).

14. *Id.* at 158.

15. *Id.*

16. CHARLES C. ANDREWS, *THE HISTORY OF THE NEW-YORK AFRICAN FREE-SCHOOLS* (1969).

his mother, father, and sister in the mid 1820s when he was nine years old. George Garnet, Henry's father, found work as a shoemaker and enrolled Henry in New York's African School—at the time, one of the best educational institutions for African Americans in the country. The Garnets made friends in the community, and lived in comparative comfort and freedom for five years. In 1828, twelve-year-old Henry secured a job as a cabin boy on a ship that made two voyages to Cuba, a job that kept him away from home until the next year. During his time at sea, Henry's family faced a crisis he never forgot and which intensified his determination to work against slavery and the fugitive slave laws.

In the middle of the summer in 1829, George opened the door of their apartment to a white man he immediately recognized as a relative of his former master. Apparently not recognizing him, the man asked for George Garnet. George promptly excused himself, pretending to go in search of the man the caller sought. After giving the alarm, George leaped through an open window twenty feet to the alley below and fled down a nearby street. Henry's mother found safety with a white neighbor, but his sister was captured and would have been sent back to slavery had it not been for friends who lied to the authorities, convincing them that she had never been a slave. The family was saved, but George was injured in his escape, almost all of their property was destroyed or taken by the slave catchers, and the Garnets were forced to leave the city. All of this young Henry learned when he returned. Thus, hunting black people and the ruin it might cause were not hypothetical issues to Henry Highland Garnet as he fought against slavery, worked in the service of the underground railroad, and opposed the even harsher 1850 law.¹⁷

Personal experience with slave catchers was common among Northern free blacks, but from the 1830s until 1850 many states in the Northeast provided them some protection. In most of New England, and in New York, New Jersey, and Pennsylvania officials tried to discourage the recovery of fugitives from within their boundaries by passing personal liberty laws.¹⁸ Generally these laws forbade the participation of state authorities or the use of state property in the capture of a fugitive. The

17. JOEL SCHOR, *HENRY HIGHLAND GARNET: A VOICE OF BLACK RADICALISM IN THE NINETEENTH CENTURY* (1977). For a contemporary account of the attempted capture of the Garnets see CRUMMELL, *supra* note 12.

18. In 1821 New Jersey passed a law to prevent their slaves from being kidnapped and sold south before they were freed by a state law which required that slaves in the state be freed by age twenty-one for females and age twenty-five for males. For a detailed examination of the New Jersey provision and the 1793 fugitive law and a description of the case of *Prigg* see, Paul Finkelman, *State Constitutional Protections of Liberty and the Antebellum New Jersey Supreme Court: Chief Justice Hornblower and the Fugitive Slave Law*, 23 *RUTGERS L. J.* 753 (1992). See also THOMAS D. MORRIS, *FREE MEN ALL: THE PERSONAL LIBERTY LAWS OF THE NORTH 1780-1861* (1974).

Pennsylvania personal liberty law of 1826 went farther, banning forcible seizure and removal of any fugitive from the state.¹⁹ In 1842, in the case of *Prigg v. Pennsylvania*,²⁰ the Supreme Court declared the Pennsylvania law unconstitutional and upheld the basic constitutionality of the Fugitive Slave Law of 1793. However, in the Court's opinion, rendered by Justice Joseph Story, states were not compelled to enforce the federal law.²¹ Most Northern states interpreted this ruling as allowing the continuation of a moderate version of the personal liberty laws that, while not hindering federal enforcement of the eighteenth-century Fugitive Slave Law, prohibited state facilities or officers from being used in the process. With the new Fugitive Slave Law in 1850, Congress made it considerably more difficult for states to protect fugitives through this kind of legislation.²²

Militant Resistance to the Fugitive Slave Law

It was not long before emboldened slaveholders set out to test the effectiveness of the stronger law. Fugitives like William and Ellen Craft were vulnerable, even in abolitionist Boston. On November 1, 1850, an article in William Lloyd Garrison's *Liberator* announced "the appearance of two prowling villains . . . from Macon, Georgia, for the purpose of seizing William and Ellen Craft, under the infernal Fugitive Slave Bill, and carrying them back to the hell of Slavery."²³ The slave catchers obtained warrants for the fugitives' arrest but had trouble finding an officer who would serve it.

Meanwhile, the reaction to the presence of slave catchers in the city was intense among Boston's abolitionists, especially in the African-American community. A vigilance committee with over one hundred members sprang into action. The city was plastered with signs warning of the efforts to enforce the Fugitive Slave Law. The slave catchers were arrested several times, charged with slander against and conspiracy to kidnap William Craft. In angry meetings the city's blacks made it clear that the fugitives could be taken only with considerable force. At one point, William was sheltered by black activist and former slave Lewis Hayden who piled explosives on the front porch of his home and threatened to blow up the house and anyone who entered in pursuit of

19. *Supra* note 18.

20. *Prigg v. Pennsylvania*, 41 U.S. (16 Pet.) 539, 613 (1842).

21. *Id.* at 615. See also *supra* note 18.

22. Paul Finkelman, *Prigg v. Pennsylvania and Northern State Courts: Anti-Slavery Use of a Proslavery Decision*, 25 CIV. WAR HIST. 5, 15-16 (1979).

23. *Slave-Hunters in Boston*, *LIBERATOR*, Nov. 1, 1850.

the fugitive. As it became clear that recapturing the Crafts would prove a difficult and dangerous job, the slave catchers withdrew from the city. Although they seemed safe for the moment, on advice from Boston abolitionists, the Crafts soon booked passage for England where they lived comfortably and securely until after the Civil War.²⁴

The attempted capture of the Crafts was the first but not the last test of the new law, and not all fugitives could be saved. The first person to be returned under the 1850 law was James Hamlet, arrested in New York City, found to be a fugitive, and remanded to the custody of the federal marshal who transported him to Baltimore. Unable to prevent his return to slavery, outraged citizens contributed the \$800 demanded by his owner in order to return Hamlet to freedom in New York.²⁵ In Detroit, Boston, New Albany, Indiana, and other Northern communities, fugitives were arrested and returned during the first year after the law's passage. Although abolitionists raised money to purchase freedom for many returned fugitives, the federal resolve was clear. The law was applied in thirteen cases within the first three months of its passage, and all but two of those arrested were returned to slavery.²⁶

Each removal of fugitives from Northern communities increased the fury of the abolitionists and broadened their base of support. In many cities, black and white activists cooperated in efforts to prevent the law's enforcement. In Chicago, just days after the bill was signed, blacks met to denounce the new law. The Chicago Common Council called it unconstitutional, said its supporters were traitors, and refused to require the city police to assist in the arrest of a fugitive.²⁷ By 1853 in Harrisburg, Pennsylvania, enforcement of the law led to a political backlash against the Democratic officials who had supported and enforced it.²⁸ By 1854 even members of the Boston police force questioned its legitimacy.²⁹

Senator Stephen A. Douglas of Illinois faced constituents at home who were angry at the part he had played in crafting and shepherding through Congress the Compromise of 1850 of which the Fugitive Slave

24. For a more complete account of the Crafts in Boston see HORTON & HORTON, *supra* note 10, at 103-04.

25. See STANLEY W. CAMPBELL, *THE SLAVE CATCHERS: ENFORCEMENT OF THE FUGITIVE SLAVE LAW, 1850-1860* (1970).

26. *Id.* Although some earlier historians have assumed that the law was not generally enforced, recent studies have made clear that the federal government was quite diligent in its enforcement. See Gerald G. Eggert, *The Impact of the Fugitive Slave Law on Harrisburg: A Case Study*, 109 PA. MAG. HIST. & BIOGRAPHY 537 (1985).

27. Olivia Mahoney, *Black Abolitionists*, 20 CHI. HIST. 22, 32 (1991).

28. Eggert, *supra* note 26.

29. HORTON & HORTON, *supra* note 10.

Law was a part. A Chicago Common Council resolution opposing the law had likened Douglas to Benedict Arnold and Judas Iscariot. Douglas defended the law for three-and-one-half hours before a crowd of four thousand. He claimed that the law would actually protect free blacks from kidnapping because, he said, it forced those claiming a fugitive to present proof of their claim. This was a curious argument but some whites in the audience were convinced, and the city council met again to moderate their original denunciation of Douglas and the law. African Americans remained hostile, and black and white abolitionists stepped up their efforts to aid and protect fugitives regardless of federal law.³⁰

Black Migration and the Fugitive Slave Law

With the increased danger, workers on the underground railroad redoubled their efforts to move passengers to Canada. The sense of urgency was especially strong in areas within easy reach of the South. One newspaper in southern Pennsylvania reported that shortly after the passage of the Fugitive Slave Law the city was "almost deserted of black fellows, since they have heard of the new law. It is supposed that more than a hundred have left for Canada and other parts." The writer then warned black strangers of their vulnerability, saying, "They had better go—that is those who are not well known here."³¹

Even farther north, in areas less immediately vulnerable to slave catchers, many chose to migrate to Canada, and community institutions felt their loss. One African-American Baptist church in Buffalo lost 130 members who crossed the Canadian border rather than risk being arrested as fugitives. Rochester's black Baptist church lost all but two of its 114 members.³² Fear of kidnapping and enforcement of the Fugitive Slave Law persuaded one-third of the congregation of Boston's Twelfth Baptist Church, often referred to as the fugitive slave church, to leave for Canada. Other black churches in Boston also lost many members. One Boston abolitionist estimated that in the fifteen days between mid-February and early March of 1851, less than six months after the passage of the law, one hundred free blacks and fugitives fled the city.³³

As an indication of these losses, historian Mechal Sobel documented the decline in the congregational membership for some of the largest

30. Mahoney, *supra* note 27; ROBERT W. JOHANNSEN, STEPHEN A. DOUGLAS (1973).

31. Eggert, *supra* note 26, at 554-55.

32. A.E. Dorn, A History of the Antislavery Movement in Rochester and Vicinity (M.A. Thesis, University of Buffalo) cited in 2 THE LIFE AND WRITINGS OF FREDERICK DOUGLASS 545 (Philip S. Foner ed., 1950).

33. HORTON & HORTON, *supra* note 10, at 103.

black Baptist churches in the North from the late 1840s to 1851. The declines recorded by Sobel ranged from 12% to 34%, the highest at Albany, New York's Hamilton Street Church. Although the cause of this decline in black church membership can only be inferred, the testimony of the abolitionists of the period suggests that in large part their losses resulted from the Canadian migration.³⁴

The upsurge in black migration was noted all over the North. Within two weeks of the signing of the law, one observer in Pittsburgh reported that "nearly all the waiters in the hotels have fled to Canada." According to his tally, "Sunday 30 fled; on Monday 40; on Tuesday 50; on Wednesday 30 and up to this time the number that has left will not fall short of 300."³⁵ From New Bedford came the news that "a very large number" of "fugitives" had departed for Canada and "parts unknown" with more to follow shortly.³⁶ The black population of Columbia, Pennsylvania decreased by more than half, as the town lost over 450 black residents in a matter of months. Detroit abolitionists guided 1,200 to Canada, and Cleveland's underground railroad recorded more than 100 emigrants per month in the year after the law's passage.³⁷

On the other side of the border estimates of black migration north were also sizable. One observer in St. Catharines estimated that by December 1850, at least 3,000 blacks had taken refuge in Canada and that many more would surely follow. Within a few months of the law's passage, the Anti-Slavery Society of Canada estimated that as many as four to five thousand emigrants had come North.³⁸ The brisk pace of the underground to Canada continued throughout most of the 1850s and even into the 1860s. In 1859 abolitionists in Troy, New York reported that large numbers of African Americans were moving through that station on to Canada, and in Detroit activists passed along the first contingent of northern emigration from North Carolina.³⁹ Also in the late 1850s, some California blacks struck out for the freer atmosphere of Vancouver.⁴⁰ Even as the first shots of the Civil War were being fired, the Fugitive Slave Law continued to affect African Americans. Three hundred left Chicago for the safety of Canada during the first few weeks in April,

34. MECHAL SOBEL, *TRABELIN' ON: THE SLAVE JOURNEY TO AN AFRO-BAPTIST FAITH* 214 (1979).

35. *LIBERATOR*, Oct. 4, 1850.

36. *LIBERATOR*, Apr. 25, 1851.

37. Fred Landon, *The Negro Migration to Canada After the Passing of the Fugitive Slave Act*, 5 J. NEGRO HIST. 22, 24 (1920).

38. *LIBERATOR*, Dec. 13, 1850; Michael F. Hembree, *The Question of "Begging": Fugitive Slave Relief in Canada, 1830-1865*, 37 CIV. WAR HIST. 314, 315 (1991).

39. Landon, *supra* note 37, at 27, 29.

40. Hembree, *supra* note 38, at 315.

1861, it was said, because of the "vigorous enforcement" of the Fugitive Slave Law.⁴¹

LEGALIZED KIDNAPPING: THE DANGER TO FREE BLACKS IN THE NORTH

Most of those who fled to Canada were fugitives and their families, but many others were free blacks afraid for their own safety. Their fear was realistic, for under the new law free people of color were more vulnerable to kidnapping by slave catchers than ever before. The danger of abduction plagued free blacks throughout the eighteenth and early nineteenth century, but the 1850 law increased that danger by declaring that alleged fugitives had no right to a defense or jury trial. Any black person could be judged a fugitive, taken south and sold into slavery, but the young and the naive living close to the South were especially at risk. During the winter of 1852 a young boy, John "Blackie" Johnson disappeared from Harrisburg, Pennsylvania. Months later his distraught mother learned that John had been taken to Baltimore where he was bound to a master. Further, this master refused to free the boy unless he was paid the \$100 he claimed as transaction expenses. Blackie's mother tried to raise the money, even going door to door asking for donations. When she was only able to collect half the required sum she turned to the federal commissioner for Harrisburg, appointed by the federal court under the Fugitive Slave Law to handle fugitive cases. In part responding to the heightened tensions and increasingly militant abolitionist protest provoked by the controversial law, the commissioner interceded on the woman's behalf, and her son was returned. Yet, even while Blackie's return was being negotiated, another Harrisburg black was taken—James Phillips, a teamster in his thirties, a husband and father of two who had lived in the city for twenty years. Despite the protests of many blacks and whites who knew him to be free, Phillips was surrendered to slave catchers who took him to Richmond and sold him to a slave dealer. Only the payment of \$800 secured his return to Pennsylvania.⁴²

Slave catching could be a lucrative undertaking, and in many Northern cities bounty hunters, encouraged by the new Fugitive Slave Law, worked alone or in gangs to make easy money by kidnapping blacks and selling them South. The diary of one white Philadelphia artisan detailed his role in capturing blacks whenever an opportunity presented itself. He was not troubled by the moral questions involved in

41. *Id.* at 327.

42. Eggert, *supra* note 26.

slavery and had little regard for whether his victim was truly a fugitive or simply an African American who might be accepted by a slaveholder in exchange for a handsome reward.⁴³ Gangs like the Blackbirders in New York City, the Gap Gang in Lancaster County, Pennsylvania and many others with names like Pug Uglies, Highbinders and Forty Thieves terrorized black communities.⁴⁴ The rising price of slaves in the South in the early 1850s discouraged distinctions between fugitives and free blacks. Thus African-American freedom was precarious, even in the North, especially since most blacks captured as fugitives during the 1850s were apprehended without the aid of legal authority. Additionally, according to one historian's estimate from a survey of cases between 1850 and 1860, captured blacks were given an opportunity for a defense in fewer than three of every five cases.⁴⁵

The vulnerability of all blacks created a widespread fear of being kidnapped. In city after city black leaders urged direct, immediate action, and some advocated carrying weapons for self-defense. Members of one group arrested for carrying guns on the Boston Common explained their actions by citing their need to protect themselves and other blacks from slave catchers. In New York, black abolitionists like Henry Highland Garnet and Samuel Ringold Ward armed themselves. Even Garrisonian William Cooper Nell advised those threatened by slave catchers to act, "as they would to rid themselves of a wild beast."⁴⁶ One prominent black abolitionist recalling the 1850s commented, "In [that] dark hour, when colored men's rights were so insecure, as a matter of self-defense, they felt called upon to arm themselves and resist all kidnapping intruders, although clothed with the authority of wicked law."⁴⁷ In Pittsburgh one store reported a run on knives and handguns by the city's blacks after the passage of the Fugitive Slave Law.⁴⁸ If slave catchers could not be stopped, their work could be made more difficult and considerably more dangerous.

43. WILLIAM OTTER, SEN., *HISTORY OF MY OWN TIME* 114-17 (Richard Stott ed., Emmitsburg, Md., 1835).

44. See, e.g., THOMAS P. SLAUGHTER, *BLOODY DAWN: THE CHRISTIANA RIOT AND RACIAL VIOLENCE IN THE ANTEBELLUM NORTH* (1991); PAUL A. GILJE, *THE ROAD TO MOBOCRACY: POPULAR DISORDER IN NEW YORK CITY, 1763-1834* (1987).

45. ALLAN NEVINS, *2 THE EMERGENCE OF LINCOLN: PROLOGUE TO CIVIL WAR, 1850-1861*, at 31 (1950); CAMPBELL, *supra* note 25, at 137; Peter Hinks, *Frequently Plunged into Slavery: Free Blacks and Kidnapping in Antebellum Boston* (1991) (unpublished paper); Carol Wilson, *Freedom at Risk: The Kidnapping of Free Blacks in America, 1780-1865* (1991) (unpublished Ph.D. dissertation, University of West Virginia).

46. HORTON & HORTON, *supra* note 10, at 103.

47. WILLIAM STILL, *THE UNDERGROUND RAILROAD* 348 (Philadelphia, People's Publishing Co. 1872).

48. *LIBERATOR*, Oct. 25, 1850.

VIOLENCE AND SELF-DEFENSE

While the new Fugitive Slave Law engendered fear, it also spawned a growing anger and an increasing militancy among African Americans. It also intensified the debate over the question of violent means for self-defense. Ultimately it spurred a shift in political strategy and rhetoric, a change perhaps most striking among blacks who were Garrisonians. William Lloyd Garrison, who became the most influential white abolitionist of the antebellum period with the publication of his radical anti-slavery newspaper the *Liberator* in 1831 in Boston, was a strong advocate of nonviolence. His unswerving commitment to immediate emancipation for slaves and civil rights for free blacks made him especially popular among African Americans who had worked toward these ends for decades with only marginal assistance from white reformers. Garrison was a nonresister—a pacifist opposed to cooperation (even through voting) with any government built on slavery and compromise with slaveholders. The route to freedom, he believed, was through strength of character and moral suasion.⁴⁹

African Americans had struggled with nonviolence and pacifism as an antislavery strategy long before Garrison's strong commitment to these philosophies became an issue. During the eighteenth century African Americans had been influenced by Quaker arguments for nonviolence, as of course was Garrison. Quakers were some of the first whites to speak out as a group against slavery, and part of their antislavery fervor was based on their pacifism. Blacks who became Friends during the eighteenth and the nineteenth century often wrestled with the constraints of this philosophy. Although several black leaders did become Quakers, one reason there was never a large number of black Quakers was the seeming impracticality of a nonviolent philosophy for a people violently deprived of their freedom.⁵⁰

There was no pacifism in the analysis of slavery and the appeal issued to slaves by David Walker from Boston in 1829.

49. For a detailed treatment of the black response to Garrison's commitment to nonviolence see James O. Horton & Lois E. Horton, *The Affirmation of Manhood: Black Garrisonians in Antebellum Boston*, in DONALD M. JACOBS, *COURAGE AND CONSCIENCE: BLACK AND WHITE ABOLITIONISTS IN BOSTON* 127 (1993).

50. Henry J. Cadbury, *Negro Membership in the Society of Friends*, 21 J. NEGRO HIST. 151 (1936). There was considerable controversy among the Friends over the admission of blacks to the Society. Some African Americans were rejected on account of color, even though they were considered models of Quaker virtue. It is likely that those blacks who applied for membership were likely to be at least as acceptable on grounds of principle, including that of pacifism, as whites who did so, and many blacks were accepted into the Society. See also JEAN R. SODERLUND, *QUAKERS AND SLAVERY: A DIVIDED SPIRIT* (1985).

The man who would not fight . . . to be delivered from the most wretched, abject and servile slavery, that ever a people was afflicted with since the foundation of the world, . . . ought to be kept with all of his children or family, in slavery, or in chains, to be butchered by his *cruel enemies*.⁵¹

Walker, a free black North Carolinian who migrated to Boston, gained national attention and raised Southern fears by urging slaves to take their freedom by force if necessary. "Are we MEN!!" he asked. "How we could be so *submissive* to a gang of men, whom we cannot tell whether they are *as good* as ourselves or not, I never could conceive."⁵²

Despite the powerful influence of Walker's writing, some African Americans, especially in Garrison's Boston, remained loyal to the principles of nonviolence through the 1840s. In fact, two prominent black Garrisonians spoke eloquently against a resolution endorsing violence against slavery at an important national meeting of free blacks held in Buffalo, New York in 1843. There Henry Highland Garnet, then a twenty-seven-year-old black abolitionist minister, echoed David Walker's exhortation, urging black men to act like men. Addressing himself to the slaves, he admonished, "It is sinful in the extreme, for you to make voluntary submission."⁵³

Garnet's speech sparked a heated debate, with Frederick Douglass and Charles Lenox Remond, Garrisonians from Boston, leading the opposition to Garnet's recommendation. They spoke in favor of nonviolence as a strategy arguing that slaves and free blacks, especially in the border states, would suffer retribution should the convention support such a radical call to violence. There was substantial support for Garnet's recommendations, and his call to action was only defeated by a narrow margin. For the time being, the black Garrisonians remained convinced and successfully blocked the open embrace of violence in the fight against slavery.⁵⁴

The passage of the Fugitive Slave Law of 1850 changed the minds of many of those committed to nonviolence and moved most African Americans towards the position proclaimed by Garnet in the early 1840s. Even before the law had been formally adopted, many blacks reacted to it in the most militant tones. In August of 1850, reacting to congress-

51. DAVID WALKER'S APPEAL 12 (Charles M. Wiltse ed., 1965) (emphasis in original).

52. *Id.* at 16 (emphasis in original).

53. Henry Highland Garnet, Speech Before the National Convention of Colored Citizens, Buffalo, New York (Aug. 16, 1843), in 3 THE BLACK ABOLITIONIST PAPERS 407 (C. Peter Ripley et al. eds., 1991).

54. David Blight argued that Douglass was committed to nonviolence as a tactic rather than a moral position. In this way, he was never a nonresistant in the Garrisonian sense of that term. See DAVID BLIGHT, FREDERICK DOUGLASS' CIVIL WAR: KEEPING FAITH IN JUBILEE (1989).

sional debate on the law, more than a month before its passage, a large, boisterous group of white and black abolitionists and fugitive slaves met in Cazenovia, New York. They called themselves the Fugitive Slave Convention and urged slaves to rise in open rebellion. Their mood was symbolic of a growing spirit of defiance, fueled by the passage of the new law, which was spreading among antislavery supporters.⁵⁵ By 1850 Remond demanded defiance of the law, protection of all fugitives, and the withholding of federal troops should the Southern slaves rise against their masters.⁵⁶

In the late summer of 1852 Douglass spoke plainly on the question of violence before a meeting of the National Free Soil Convention in Pittsburgh, asserting that "slaveholders not only forfeit their right to liberty, but to life itself." He drew laughter and applause when he quipped that "The only way to make the Fugitive Slave Law a dead letter is to make half a dozen or more dead kidnappers." This, he argued would do much to "cool the ardor of Southern gentlemen, and keep their rapacity in check."⁵⁷ He argued that such extreme measures were necessary so long as African Americans could not depend on the law for protection.⁵⁸ The next year Douglass advocated violence obliquely, publishing a novella in which slaves killed the captain of a slave ship and a slave owner. He continued his forthright stand on this issue when a year later he published an editorial entitled *Is It Right and Wise to Kill a Kidnapper?* in *Frederick Douglass' Paper*. Violence, even deadly violence, Douglass reiterated, was justifiable when used to protect oneself, one's family or community.⁵⁹

Douglass' strong rhetoric reflected the anger which for some African Americans boiled over into militant action and calls for military preparedness. Ohio blacks demanded that racial restrictions be removed from the state militia so that they might take up arms in readiness for the fight that must surely come between the forces of freedom and the supporters of slavery.⁶⁰ Boston blacks petitioned the Massachusetts legislature to charter a black military company and formed the Massasoit Guard without state sanction when their petition was rejected.⁶¹ In Cin-

55. Paula J. Priebe, *Central and Western New York and the Fugitive Slave Law of 1850*, in 16 *AFRO-AMERICANS IN N.Y. LIFE AND HIST.* 19 (1992).

56. HORTON & HORTON, *supra* note 10, at 116.

57. 2 THE FREDERICK DOUGLASS PAPERS 390 (John W. Blassingame ed., 1982).

58. *Id.*

59. WILLIAM S. McFEELY, *FREDERICK DOUGLASS* 189 (1991); *FREDERICK DOUGLASS' PAPER*, June 2, 1854.

60. *PROCEEDINGS OF THE BLACK STATE CONVENTIONS, 1840-1865*, at 318 (Philip S. Foner & George W. Walker, eds., 1979).

61. *SPEAK OUT IN THUNDER TONES* (Dorothy Sterling ed., 1973).

cinnati blacks formed the Attucks Guards; New York African Americans shared the name of this black Revolutionary hero, also calling one of their units the Attucks Guards.⁶² In the large cities and smaller towns of the North, blacks readied themselves for self-defense, and sometimes for much more. "Captain" J.J. Simmons of the New York unit prophesied that the time would soon come when Northern black military units would be called to march through the South with "a bible in one hand and a gun in the other."⁶³

REEXAMINING EMIGRATION DURING THE DANGEROUS DECADE OF THE 1850S

The passage of the 1850 Fugitive Slave Law was an assault on the rights and freedom of all black people and foreshadowed other attacks which culminated with the infamous 1857 Supreme Court decision in the case of *Dred Scott*.⁶⁴ If the Fugitive Slave Law endangered the citizenship rights of African Americans, the *Dred Scott* decision proclaimed that no such rights existed. For many it was the final justification for the use of violence for self-defense and community protection. Black anger intensified, their rhetoric escalated and organization increased. Many responded positively to the sentiment expressed by Charles Lenox Remond in a crowded meeting of enraged blacks in Philadelphia. "We owe no allegiance to a country which grinds us under its iron hoof and treats us like dogs," he said. "The time has gone by for colored people to talk of patriotism."⁶⁵

By the end of the 1850s there was widespread agreement that unjust laws inflicted on the black community must be resisted. The stricter Fugitive Slave Law and Justice Taney's opinion in the *Dred Scott* case in 1857 lent strength to the belief that Southern slaveholders could prevail upon the federal government to ignore or abolish the rights of free blacks, that even well-meaning state officials could not provide legal protection, and that the "slave power" must be discouraged by violent opposition. What free blacks had known for decades became increasingly clear—the abolition of slavery was more than a matter of protecting family and loved ones, it was a prerequisite to equal treatment for blacks under American law.

62. *Id.*

63. THE BLACK ABOLITIONIST PAPERS, *supra* note 53, at 319.

64. *Dred Scott v. Sandford*, 19 U.S. (1 How.) 393 (1857).

65. LIBERATOR, Apr. 10, 1857. For a analysis and interpretation of the *Dred Scott* decision and general information on the proslavery stands taken by the court during the antebellum period see PAUL FINKELMAN, AN IMPERFECT UNION: SLAVERY, FEDERALISM, AND COMITY (1981).

Thus, there was near unanimous agreement on the immorality, injustice, and the intolerable nature of the Fugitive Slave Law and the racially determined limitations imposed by the federal government culminating in the *Dred Scott* decision. There was also a strong and growing acceptance of violence as a means of defense. The stance of the federal government in the 1850s also led some to revive plans for black emigration to places more distant than Canada. At state and regional meetings in the early 1850s, African Americans, reacting to the Fugitive Slave Law, also considered emigration possibilities to Mexico, Central America, Jamaica and Haiti, all of which had, by then, abolished slavery. In 1851 J. Wesley Harrison, who had recently moved to Jamaica, returned to the United States with encouraging stories about the prospects for African-American settlement there. Although few American blacks actually migrated, there was significant interest in Jamaica as a destination. Reverend J.W.C. Pennington, who before 1850 had been a strong opponent of emigration, offered his church in New York City as a meeting place for those interested in Jamaica.⁶⁶

By mid-decade some blacks were also considering Haiti as an alternative to the United States. Three decades earlier several thousand African Americans had actually migrated to that nation with the encouragement of the Haitian government. Although most returned to the United States after a few years, interest in Haiti as an independent black nation remained. After Haitian officials assured Connecticut minister James Theodore Holly in 1855 that American blacks would be welcome, Holly conducted a series of lectures to stimulate interest in Haitian immigration.⁶⁷ In 1858 the Haitian government sent an official commission to enlist emigrants, and by 1860 British abolitionist James Redpath was able to raise a sizable fund to support the transportation of those who might make the trip. It is a mark of the degree of blacks' disillusionment with their American prospects that Frederick Douglass who had never supported emigration of any kind declared at the end of 1860 that while he had never before been willing to see blacks as a "doomed race" in America, he could "raise no objection to the present movement toward Hayti."⁶⁸

The disillusionment brought on by the Fugitive Slave Law was so powerful that it rekindled the spirit of African colonization among some free blacks. The initial efforts by the largely white American Coloniza-

66. 3 PHILIP FONER, *HISTORY OF BLACK AMERICANS* 159 (1983).

67. *Id.* at 160.

68. *Id.* at 163. See also DOUGLASS' MONTHLY, Jan. 1861.

tion Society established in 1816 which sponsored the emigration of hundreds of black Americans to their West African colony of Liberia had drawn little free black support, especially after the 1830s.⁶⁹ Canada or even the Caribbean were close enough to allow for a continuation of the antislavery struggle. But the great distance across the Atlantic made it unlikely that blacks who immigrated to West Africa could maintain the fight. Most believed that to leave America for Africa was to abandon those left behind in bondage. Then too, African Americans distrusted the motives of the American Colonization Society with its large slaveholding membership and its conciliatory approach to slaveholders. In 1848 Liberia became an independent nation and became a source of pride for black Americans, but even its emergence from colonial status was not enough to convince most African Americans to emigrate.⁷⁰ Despite his willingness to accept the possibility of Haitian emigration, Douglass remained dead set against African emigration. The distance, he argued, was too great for emigrants to maintain their ties with those left behind, and the reports of early migrants of disease and warfare with native populations were discouraging.⁷¹ Still, there was an African emigration movement among free blacks during the mid-1850s. Blacks led by Henry Highland Garnet, who had opposed emigration during the 1840s, minister Alexander Crummell and Pittsburgh's Martin Delany founded an emigration organization in 1858. In the late summer Garnet addressed a large crowd in New York City's Spring Hall, arguing that black Americans must turn away from America's hypocrisy and toward the land of their ancestors. Citing the economic potential of African trade and the possibility for independence, he announced the formation of the African Civilization Society.⁷²

Garnet's appeal to racial pride and the prospect of expanding Christianity in West Africa combined with the political and economic possibilities tempted some. But the vast majority were not willing, as they saw it, to give up their claims to American citizenship, admit that proslavery forces had won, and abandon their friends and relatives in slavery. On this last point there was the strongest feeling. As free blacks of all ages had fought against slavery throughout the antebellum period, most could not bring themselves to withdraw from the battle not yet won. They would stay and continue the fight for abolition and for their

69. THE BLACK ABOLITIONIST PAPERS, *supra* note 53.

70. HORTON & HORTON, *supra* note 10.

71. WILSON J. MOSES, THE GOLDEN AGE OF BLACK NATIONALISM, 1850-1925, at 38-39 (1978).

72. *Id.*; SCHOR, *supra* note 17.

rights as free American citizens. For most these were the inseparable struggles which had defined free black life throughout the antebellum period.

CONCLUSION

Not all historians have appreciated this important link between free blacks and slaves, and some have depicted these two groups as more separate than they actually were. One scholar has suggested that the free blacks of the North were so immersed in the struggle to improve their own lives that they had no time and little interest in underground abolitionist activity. "Why after all, should a Northern black be an active abolitionist?" historian Frederick Cooper asked. "Whatever feelings he had for his brethren in bonds, blacks in Northern cities still had to live their daily lives The idea of self-improvement was of far more relevance to their lives than the crusade against slavery."⁷³

Cooper was partly correct, self-help was a central concern for free black people, but he drew too sharp a distinction between self-help and antislavery, assuming that commitment to one lessened involvement in the other. In doing so he failed to appreciate the bond between slaves and free blacks, a bond which illustrated the African-American community's propensity for collective self-help, and failed to recognize the common danger they faced at the hands of the federal government.

Although there were frictions in black society that sometimes led to political and social fractures, slave, fugitive, and free-born blacks were bound together by blood, culture, common experience, and a recognition of the injustice of American racial inequality. At times of greatest stress the issues which bound people together became most visible. The common threat of kidnapping was an essential link in the bonds that united black people, and the passage of the Fugitive Slave Law of 1850 was the opening assault of a brutal decade. For African Americans it reinforced the reality of their shared injustice.⁷⁴

73. Frederick Cooper, *Elevating the Race: The Social Thought of Black Leaders, 1817-50*, at 24 AM. Q. 604, 620 (1972). For an insightful critique of Cooper's thesis see Peter P. Hinks, "We Must and Shall Be Free": David Walker, Evangelicalism, and Antebellum Black Resistance (Ph.D. dissertation, Yale University, forthcoming).

74. For a more detailed treatment of the link between Northern free blacks and slaves see JAMES O. HORTON, *FREE PEOPLE OF COLOR: INSIDE THE AFRICAN AMERICAN COMMUNITY* (1993).

