

# *The Tragedy of Edward “Ned” Davis: Entrepreneurial Fraud in Maryland in the Wake of the 1850 Fugitive Slave Law*

ABSTRACT: The celebrated trials of Anthony Burns, Shadrach Minkins, and Thomas Sims were not the only compelling slave cases to occur after the passage of the 1850 Fugitive Slave Law. The little known slave case of Edward “Ned” Davis was arguably just as stunning as they. Although it did not receive the same attention or entail the same fanfare that these other, better-known slave cases did, Davis’s case nevertheless exposed a depth of corruption in the nation’s legal, economic, and political systems that they did not. Unlike Burns, Minkins, and Sims, Davis was not initially a slave; he was a free man of color like Solomon Northup. Unlike Northup, though, who had been illegally deceived and enslaved in the 1840s, Davis’s entrapment was perfectly legal. By 1851, multiple forces in local, state, and federal government—particularly in Pennsylvania, Maryland, and Delaware—had converged in such a way as to make it impossible for even a defense team composed of an abolitionist and a slaveholder to prevail. The Davis case scandalized Philadelphia’s abolitionist community, and launched the career of the prominent abolitionist poet Frances Ellen Watkins Harper.

The Daily *Register* of Monday morning contained an account of a daring attempt of a colored man, supposed to be a slave, to escape from Savannah, Georgia, on board the steamship Keystone State. . . . His name is Edward Davis; he . . . used to live in this city [Philadelphia]. . . . About two years ago two white men persuaded him to go with them to Baltimore.

—Cyrus M. Burleigh et al., “*Perilous Adventure*,”  
Pennsylvania Freeman, Mar. 23, 1854

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FROM MARCH UNTIL MAY of 1854, Cyrus Moses Burleigh—abolitionist editor of the *Pennsylvania Freeman* and younger brother of abolitionist orator Charles C. Burleigh—ran a series of articles on the slave case of Edward “Ned” Davis. Davis was a free black laborer who was entrapped in a complex web of legalized prejudice, manipulation, enslavement, and entrepreneurial fraud after the passage of the 1850 Fugitive Slave Law. This federal statute subjected free people of color, not just runaway slaves, to apprehension, imprisonment, trial, and enslavement without recourse if an individual produced a court affidavit claiming them as property. Frederick Douglass’s famous epithet for this legislation—“The Bloodhound Law”—deftly characterized its facilitation of both open and clandestine means of trapping, kidnapping, remanding, and enslaving runaways and free blacks. The celebrated cases of Shadrach Minkins, Thomas Sims, and Anthony Burns, runaway slaves from Virginia and Georgia, resulted from this law. What is not so well known is the extent to which entrepreneurial fraud flourished as a result of it—particularly in border states such as Maryland, where existing black codes and race prejudice encouraged such abuses—and deliberately aligned the capture of unwitting free blacks with “the dark dreams” of white empire that had long made slavery an insidious form of capitalism.<sup>1</sup>

Davis’s tragedy—a little-known slave case created by Maryland’s black codes and tried under the 1850 Fugitive Slave Law—illustrates this well. Like Solomon Northup’s better-known case, Davis’s situation involved deception—indeed several levels of subterfuge implemented by individuals, prison officials, and slave traders. Unlike Northup’s case, though, everything that occurred in Davis’s situation was legal, from his arrest and fine for violating Maryland’s 1839 law against free blacks entering that state; to his imprisonment and enslavement under that code for not

<sup>1</sup> Cyrus M. Burleigh et al., “Perilous Adventure,” *Pennsylvania Freeman*, Mar. 23, 1854; “Case of Edward Davis,” *Pennsylvania Freeman*, Mar. 30, 1854, p. 2, cols. 4–5; “Edward Davis,” *Pennsylvania Freeman*, Apr. 6, 1854, p. 2, col. 6; “The Case of Edward Davis,” *Pennsylvania Freeman*, Apr. 20, 1854, p. 2, cols. 2–3; “The Slave Catching Outrage,” *Pennsylvania Freeman*, Apr. 27, 1854, p. 3, cols. 1–3; “Edward Davis,” *Pennsylvania Freeman*, May 18, 1854, p. 3, col. 4; Ira V. Brown, “An Anti-Slavery Agent: C. C. Burleigh in Pennsylvania, 1836–1837,” *Pennsylvania Magazine of History and Biography* 105 (1981): 66–67; “The Fugitive Slave Law of 1850,” in *Against Slavery: An Abolitionist Reader*, ed. Mason Lowance (New York, 2000), 325–31; Margaret Washington, *Sojourner Truth’s America* (Urbana, IL, 2009), 196; Gary Collison, *Shadrach Minkins: From Fugitive to Citizen* (Cambridge, MA, 1997), 1–3, 9–13, 39–90, 110–33, 190–91; Albert J. von Frank, *The Trials of Anthony Burns: Freedom and Slavery in Emerson’s Boston* (Cambridge, MA, 1998); Walter Johnson, *River of Dark Dreams: Slavery and Empire in the Cotton Kingdom* (Cambridge, MA, 2013), 1–45, 86–87, 176–208, 244–302. Note also with Johnson, Sven Beckert, *Empire of Cotton: A Global History* (New York, 2014); and Edward E. Baptist, *The Half Has Never Been Told: Slavery and the Making of American Capitalism* (New York, 2014).

being able to pay the fine; to his trial in Delaware under the 1850 Fugitive Slave Law for daring to assert his freedom; to his remanding to slavery in Georgia, his penalty for seeking justice. In other words, Davis's case was not only initiated by entrepreneurs who profited from putting him into the slave system, as was Northup's situation; but it was also created, facilitated, and sustained by two government entities determined to exploit blacks for the express purpose of profiting whites.<sup>2</sup>

In late 1850 and early 1851, just after the passage of this infamous federal law, the Maryland state legislature held a convention at which representatives from various counties debated control of the state's free black population. Several legislators voiced their and other white Marylanders' long-held worries about the exponential growth of the number of free blacks in their slaveholding state. These legislators were not simply concerned about a growing, uncontrolled, free black population, however; they were particularly afraid that this population would threaten whites' political and economic self-interest and material wellbeing in the wake of Congress's recent "Compromise." Representatives Robert Brent and Charles Gwinn of Baltimore City and Louis McLane of Cecil County summarized these concerns well. Brent characterized free blacks as an "incubus" or evil spirit oppressing whites and instigated a call for their removal: "The new census exhibits the alarming fact, that while the number of slaves has diminished, that of the free colored persons has increased. . . . [A] time may come, when it will be necessary for our tranquility and security, to banish . . . [this] incubus on the prosperity of the State."<sup>3</sup> Gwinn argued that Maryland was central to national unity and that a "fanatical" antislavery "opinion" threatened the Union: "Maryland is a BORDER State. . . . Her internal harmony creates a bond between north and south. . . . [T]he growth of fanatical opinion within her territory, would do more towards the dissolution of the Union, than all the wickedness and perversity of external

<sup>2</sup>Davis's case received the most attention in the Philadelphia metropolitan area. It was discussed in Burleigh's articles in the *Pennsylvania Freeman*, in the *Twenty-First Annual Report of the Philadelphia Female Anti-Slavery Society* (Philadelphia, 1855); and in William Still's biographical sketch of Frances Ellen Watkins Harper in *The Underground Rail Road* (Philadelphia, 1872), 757–58. For Solomon Northup's case, which garnered national attention in 1853 and 1854, see Solomon Northup, *Twelve Years a Slave*, ed. Sue Eakin and Joseph Logsdon (Baton Rouge, LA, 1968).

<sup>3</sup>"Proceedings and Debates of the 1850 Constitutional Convention," in *Debates and Proceedings of the Maryland Reform Convention to Revise the State Constitution*, 2 vols. (Annapolis, MD, 1851), reproduced in William Hand Browne and Edward C. Papenfuse et. al., eds., *Archives of Maryland*, 215+ volumes (Baltimore and Annapolis, MD, 1883–), vol. 101, *Debates*, 1:195 (hereafter cited as *Archives of Maryland*). This series is ongoing and available online at <http://aomol.msa.maryland.gov>, where volumes, collectively or individually, can be searched electronically.

influence.”<sup>4</sup> And McLane sounded the alarm: “[T]hese people ought to be removed as soon as it can be done with propriety. . . . [W]e are not bound to wait until the danger becomes more imminent . . . [, for] the principle of abolition . . . has [already] operated on the colored people.”<sup>5</sup>

Although Brent, Gwinn, McLane, and their fellow legislators initially disagreed on how to get rid of free blacks without infringing upon the rights of white resident aliens with the same legal status, they all agreed that free blacks functioned as “incendiaries” under the “principle of abolition.” Natural residents and those from out of state could both foment discord between blacks and whites and aid and abet runaway slaves. These potential collusions were particularly threatening because they took place precisely as the federal government looked to Maryland to help make the new slave law effective. Thus, they concluded that Maryland should more strictly and consistently enforce the black codes that it had passed in 1831 and 1839, in the aftermath of the Nat Turner Rebellion. In their view, if these statutes were better enforced, the activities and movements of resident free people of color would be appropriately curtailed until this population could be properly removed—preferably to Africa. Furthermore, the attempts of nonresident free blacks to enter and settle in the state could be prevented by severe fines, imprisonment, and enslavement.<sup>6</sup>

Chapter 320, Section 1 of the 1839 Maryland statute on free people of color makes this point clear:

<sup>4</sup> Ibid., 101, *Debates*, 1:197.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid., 101, *Debates*, 1:194–98, esp. 195 and 197; “Laws of Maryland.—1831,” and “Laws of Maryland.—1839,” in Clement Dorsey, *The General Public Statutory Law and Public Local Law of the State of Maryland: From the Year 1692 to 1839 Inclusive, with Annotations Thereto, and a Copious Index*, 3 vols. (Baltimore, 1840), reproduced in *Archives of Maryland*, 141:1068–70, 2343. The 1839 statute against the immigration of free blacks into Maryland was still on the books in the early 1850s, when Davis was enslaved, and it remained so into 1860. Laws restricting, eradicating, or calling for the colonization or re-enslavement of free blacks were also still being discussed in state constitutional conventions from 1850 to 1864. See, for example, “Immigration of Free Negroes,” in *The Maryland Code: Public General Laws and Public Local Laws*, comp. Otho Scott and Hiram McCullough (Baltimore, 1860), reproduced in *Archives of Maryland*, 145:458–60; “Proceedings and Debates of the 1850 Constitutional Convention,” in *Proceedings of the Maryland State Convention, to Frame a New Constitution, Commenced at Annapolis, November 4, 1850* (Annapolis, 1850), reproduced in *Archives of Maryland*, 101:496–505; James Warner Harry, *The Maryland Constitution of 1851* (Baltimore, 1902), reproduced in *Archives of Maryland*, 631:57–62; “Proceedings of the House, 1860, February 10, 17,” from *Proceedings of the House, 1860* [GENERAL ASSEMBLY, HOUSE (Journal), 1860, MdHR 821075–1, 2/1/6/8] (Annapolis, 1860), reproduced in *Archives of Maryland*, 660:364, 468; “Proceedings and Debates of the 1864 Constitutional Convention,” in *The Debates of the Constitutional Convention of the State of Maryland, Assembled at the City of Annapolis, Wednesday, April 27, 1864*, 3 vols. (Annapolis, MD, 1864), reproduced in *Archives of Maryland*, 102:109–12, 124–28.

Be it enacted, by the General Assembly of Maryland, that after the passage of this act, no free negro or mulattos, belonging to or residing in any other state, shall come into this state, whether such free negro or mulatto intends settling in this state or not, under the penalty of twenty dollars for the first offense; and no free Negro or mulatto shall come into this state a second time where he or she has been arrested under the provisions of this act, under the penalty of five hundred dollars.<sup>7</sup>

Delaying a discussion of the smaller, though not inconsequential, fine until the end of the section, the statute focuses first on the second and more substantial fine by delineating how, by, and to whom it was to be disbursed:

[T]he one-half of the said sum of five hundred dollars to the informer, and the other half to the sheriff, for the use of the colonization society of the state of Maryland, to be recovered on complaint and conviction before the county court of the county, or during the recess, the orphans court of said county in which he or she shall be arrested.<sup>8</sup>

The informer was to make \$250 for turning in a person of color from out of state, while the Maryland State Colonization Society (MSCS), via the presiding sheriff, was to earn another \$250. In other words, black violators of this law were used to encourage individual whites to entrap them so that they could help to pay the cost of sending resident free blacks and mulattos to Africa—purportedly with their consent, as the Christian leaders of the colonization movement often put it. All of this assumed, of course, that said offender of color was willing and able to pay the \$500 fine. If this person refused, neglected, or could not pay the fine, the penalty was swift and brutal:

[A]ny free negro or mulatto refusing or neglecting to pay said fine, shall be committed to the jail of the county, and shall be sold by the sheriff at public sale, to the highest bidder, whether a resident of this state or not, first giving ten days notice of such sale, to serve in the character and capacity of a slave.<sup>9</sup>

After delineating the penalty for not paying the \$500 fine, the law once again addressed how the proceeds from the sale of the offending free black person or mulatto was to be disbursed and by and to whom:

<sup>7</sup>"Laws of Maryland.—1839," in *Archives of Maryland*, 141:2343. This statute was a supplement to the Act of 1831, Chapter 323, "An Act Relating to Free Negroes and Slaves."

<sup>8</sup>Ibid.

<sup>9</sup>Ibid.

[T]he said sheriff, after deducting prison charges and a commission of ten percent, shall pay over one-half of the net proceeds to the informer, and the balance he shall pay over, if sold in a county on the eastern shore, to the treasurer of said shore, or if sold in a county on the western shore, to the treasurer of the western shore, for the use of the colonization society of the state of Maryland.<sup>10</sup>

In this instance, the informer and the MSCS were not the only ones to make money on the out of state offender. The prison system and the prison official did as well, since they purportedly needed to be remunerated for handling the prisoner. The prison official's payment, however, was not simply an incentive for him to cooperate, but it was also a requirement that carried its own penalties if he did not comply:

[F]or all sums of money so received by the said sheriff, his bond shall be answerable on his failure to pay the same over, in an action at law in the name of the State of Maryland, for the use of the parties entitled to receive the same by this act; and all sheriffs and constables are hereby required to arrest any free negro or mulatto, who may come into this state contrary to the provisions of this act.<sup>11</sup>

At stake in law enforcement's compliance, then, was the white informer's and the MSCS's profit and the state's ability to get rid of free blacks. Indeed, getting rid of free blacks was so important to the state that the statute authorized others outside of law enforcement to act in this capacity: "all other persons are authorized to arrest any such free negro or mulatto."<sup>12</sup> The statute then concluded by delineating the disbursements and penalties accompanying the first offense of the law and its smaller fine of twenty dollars:

[S]uch sheriff, constable, or any other person as may arrest any free Negro or mulattos, who shall have come once into the state contrary to the provisions of this act, shall be entitled to the penalty of twenty dollars hereby inflicted, to be recovered on complaint and conviction as before stated, and such free negro or mulatto shall pay the said penalty of twenty dollars, and all jail fees and expenses incident to his or her arrest and detention, or upon his or her failure to do so, he or she shall be committed and sold as herein

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

provided in relation to those who have incurred the penalty of five hundred dollars; Provided, that if said negro or mulatto shall not remove out of the state within five days after he [or she] shall have paid the said sum of twenty dollars, he [or she] shall be deemed to have come a second time into the state and shall be liable as if he [or she] had so done.<sup>13</sup>

Thus, whether or not a free person of color committed a first or second offense of entering Maryland, said person was subject to heavy fines, imprisonment, and enslavement.<sup>14</sup>

In the case of Edward Davis, this was the statute that was enforced in the wake of and in conjunction with the 1850 Fugitive Slave Law. Coupled with the federal law, the strict enforcement of this state code consolidated the institutionalization of race prejudice in Maryland and declared unequivocally that free blacks such as Davis “had no rights that the white man was bound to respect”—to use the now infamous remark of Chief Justice Roger B. Taney, a Maryland lawyer and slaveholder, in the Dred Scott decision of 1857. In this climate fraud was inevitable and ineradicable. It could not effectively be recognized or dismantled as injustice in a court of law when the justice systems of Maryland and the United States were complicit.

Cyrus Burleigh’s three-month account of the Davis case reveals these abuses in detail. In March of 1854, Burleigh broke this tragic story as it unfolded with Davis’s harrowing, but unsuccessful, escape on the *Keystone State*, a Pennsylvania steamship that regularly ran between Philadelphia and Savannah. Davis, a thirty-seven-year-old free black and common laborer from Philadelphia, had been deceived into going into Maryland, where he was sold into slavery and ultimately sent to Georgia. His enslavement caused an uproar in Philadelphia’s African American and abolitionist communities when it came to light in late March. Young Frances Ellen Watkins, soon to become a famous abolitionist poet, was so disturbed by Davis’s plight that she told her close friend and colleague William Still that it was on Davis’s grave that she “pledged herself to the anti-slavery cause.”<sup>15</sup>

<sup>13</sup> Ibid., 141:2343–44.

<sup>14</sup> Note that Maryland’s 1831 black code provided the contours for the 1839 statute used in Davis’s case, including guidelines for the distribution of funds collected; see “Laws of Maryland.—1831,” in *ibid.*, 141:1068–69.

<sup>15</sup> Burleigh et al., “Perilous Adventure,” *Pennsylvania Freeman*, Mar. 23, 1854; Philadelphia Female Anti-Slavery Society, *Twenty-First Annual Report*, 14; Still, *Underground Rail Road*, 757–58. For an extended treatment of this case as presented from Watkins Harper’s perspective, see Marcia C. Robinson, “The Noblest Types of Womanhood”: *Frances E. W. Harper and the Negotiation of Female Citizenship in Anti-Slavery Electoral Culture*, currently under review by the University of North Carolina Press.

Like black common laborers elsewhere in the United States at the time, Davis was initially not so much concerned about causes, even anti-slavery ones. Rather, he was concerned about surviving and helping his family to survive. Because he encountered a great deal of competition for jobs in Philadelphia, particularly among free blacks, poor whites, and European immigrants, he was compelled to go from town to town looking for work.<sup>16</sup> According to the *Pennsylvania Freeman*, on September 5, 1851, Davis was on his way from Philadelphia to Hollidaysburg, near Altoona in western central Pennsylvania, when he was approached in Harrisburg by two white men who told him that there was work down the Susquehanna River at Havre de Grace, Maryland, on the Chesapeake Bay.<sup>17</sup> Unaware of Maryland's 1839 statute against free blacks entering the state, Davis went to Havre de Grace to work on a Baltimore oyster schooner called the *Thomas and Edward*.<sup>18</sup> On the morning of September 6, 1851, the schooner left Havre de Grace for St. Michael's on the Eastern Shore, where Frederick Douglass, James W. C. Pennington, Henry Highland Garnet, and Harriet Tubman had all been enslaved.<sup>19</sup>

<sup>16</sup> Christopher Phillips, *Freedom's Port: The African-American Community in Baltimore, 1790–1860* (Urbana, IL, 1997), 194–204; Charles Sellers, *The Market Revolution: Jacksonian America, 1815–1846* (New York, 1991), 103–71, 353–55; Allen F. Davis and Mark H. Haller, eds., *The Peoples of Philadelphia: A History of Ethnic Groups and Lower-Class Life, 1790–1940* (Philadelphia, 1973), 111–54; Russell L. Weigley, Nicholas B. Wainwright, and Edwin Wolf 2nd, eds., *Philadelphia: A 300-Year History* (New York, 1982), 352–53, 385–86; Wolf, *Philadelphia: Portrait of an American City* (Philadelphia, 1990), 150–52.

<sup>17</sup> Davis seems to have given two versions of his story. In the first, the story from the *Register* that appears in the March 23, 1854, issue of the *Pennsylvania Freeman*, Davis did not mention that he had been a slave in Georgia. He only admitted to being approached by two white men who persuaded him to go with them to Baltimore, and who then detained him for months, paying him money, while taking him further south, but never selling him. Davis probably gave this account in order to raise the least amount of suspicion that he had indeed been a slave in Georgia. After printing this story, Burleigh indicated in the March 30, 1854, issue of the *Pennsylvania Freeman* that an unnamed “friend,” “who ha[d] taken much pains to acquaint himself with the facts”—that is, conducted a careful interview with Davis—got the wronged man's full account of how he came to work on the *Thomas and Edward* and what occurred thereafter. The story that Burleigh then printed in the April 20, 1854, issue of the *Freeman*, which was mostly written by this “friend,” clarified, corrected, and expanded the details of the initial story, corroborating the basic outlines of Davis's story as it emerged in the state and federal trials in Delaware. Hence, the best account of Davis's story prior to the two trials in Delaware, and the one on which this article is based, appears in the April 20 issue of the *Freeman*. For more on this story, see Robinson, “*The Noblest Types of Womanhood*.”

<sup>18</sup> Burleigh et al., “The Case of Edward Davis,” *Pennsylvania Freeman*, Apr. 20, 1854; “Laws of Maryland.—1831,” and “Laws of Maryland.—1839,” in *Archives of Maryland*, 141:1068–70, 2343.

<sup>19</sup> Burleigh et al., “The Case of Edward Davis,” *Pennsylvania Freeman*, Apr. 20, 1854. See also Frederick Douglass, *Narrative of the Life of Frederick Douglass, an American Slave, Written by Himself*, Norton critical ed., ed. William L. Andrews and William S. McFeely (New York, 1997), 12–27, 70; C. Peter Ripley et al., *The Black Abolitionist Papers*, 5 vols. (Chapel Hill, NC, 1991), 3:477–78n4 ; Joel Schor, *Henry Highland Garnet: A Voice of Black Radicalism in the Nineteenth Century* (Westport, CT, 1977), 4; and Kate Clifford Larson, *Bound for the Promised Land: Harriet Tubman, Portrait of an American Hero* (New York, 2004), 1–54.



There, Davis participated in what he thought was an honest day's labor fishing, hauling, and unloading the catch in Baltimore.<sup>20</sup>

On returning to Havre de Grace, Davis immediately sought a job at a grocery run by a Mr. Sullivan.<sup>21</sup> He was at work at Sullivan's grocery when he was confronted and arrested by a Constable Smith, who had clearly been tipped off by the white men who told Davis about the job on the *Thomas and Edward*—men who may well have been the owners of that schooner.<sup>22</sup> If these men were indeed the owners of that schooner, they probably knew that they could not only get Davis's labor cheap in oyster fishing but also make some extra money by turning him in to the police, as the 1839 black code stipulated. Common laborers like Davis did not earn much more than a dollar a day at best, more likely sixty to ninety cents per day.<sup>23</sup> His deceivers knew, then, that his wages for working on the *Thomas and Edward* were not going to be anywhere near the twenty dollars needed to pay the fine for violating the 1839 law against free blacks entering the state.<sup>24</sup> Davis would have to work nearly a month or more for that. They probably also knew that they could receive anywhere from \$10 to \$250 on Davis, depending upon whether authorities claimed he had violated this law before and whether or not they actually received half of the fine against Davis.<sup>25</sup> In other words, informing on a free black man could give a white man willing to do a little bounty hunting anywhere from 10 to nearly 420 times the wages of a common laborer—or half a month to over a year's work—without resistance. What a profitable and easy business for someone with no regard—or compassion—for a fellow human being, especially a poor, struggling, and nearly middle-aged man.<sup>26</sup>

<sup>20</sup> Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854. Interestingly, Frederick Douglass and several other men planned an escape from the St. Michael's area nearly twenty years earlier than Davis's brief employment in the area. See Douglass, *Narrative*, 39, 56–61.

<sup>21</sup> Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854.

<sup>22</sup> *Ibid.*

<sup>23</sup> Robert A. Margo, *Wages and Labor Markets in the United States, 1820 to 1860* (Chicago, 2000), 14–15, 42, 44–45, 51, esp. tables 3.1, 3A.5, and 3A.9. Cf. James M. Wright, *The Free Negro in Maryland, 1634–1860* (New York, 1921), 161–62; Phillips, *Freedom's Port*, 108–9, 270nn66–67; and Douglass, *Narrative* (Norton critical ed., 1997), 64.

<sup>24</sup> See Margo, *Wages and Labor Markets*, tables 3.1, 3A.5, and 3A.9; and "Laws of Maryland.—1839," in *Archives of Maryland*, 141:2343.

<sup>25</sup> "Laws of Maryland.—1839," in *Archives of Maryland*, 141:2343.

<sup>26</sup> According to the 1850 US Census, white and free black men, as well as black male slaves, were expected to live into their forties. Half of the men who made it to their twenties, the peak age and the largest population group of men and women, were dead by forty-nine. See J. D. B. DeBow, "Abstract of the Census Legislation of the United States, from 1790 to 1850 Inclusive," in *The Seventh Census of the United States: 1850* (Washington, DC, 1853), xlii–liv, tables xxi–xxiii.

Davis was upset about this callous treatment and terrified upon his arrest. According to him, he was first taken by Constable Smith before a magistrate named Graham to pay the twenty-dollar fine.<sup>27</sup> When he could not produce the money, he was taken to Bel Air Prison in Harford County.<sup>28</sup> While there, he tried to locate a friendly white person who could vouch for his character and his freedom and pay his fine in time for his trial. Sheriff Gaw, the warden of the prison, agreed to help by writing a letter to a Mr. Maitland on his behalf.<sup>29</sup> It is not clear who Maitland was. He may have been Davis's most recent employer, prior to working for the owners of the *Thomas and Edward*, or someone he knew who lived near the Pennsylvania-Maryland border. In any case, Davis learned just before his trial that Maitland had died.<sup>30</sup> As a result, he had no way to pay the fine when he was brought before Judge C. W. Bellingslea of Harford County's Orphans' Court on October 14, 1851.<sup>31</sup> And so Bellingslea sentenced him to be sold into slavery in order to pay the fine and "all other costs incurred by his violation of the 1839 act of Assembly."<sup>32</sup> In other words, Davis was not only responsible for the twenty-dollar fine, but he was also responsible for the arrest and jail fees that had accrued as the 1839 black code stipulated. This amounted to fifty dollars—twenty for the fine and thirty for the fees—since he was tried for a first violation of the law and sold by the state at that rate.<sup>33</sup> Put in terms of Davis's labor, this amounted to between around fifty and eighty days—or nearly two to three months of work.

Harford County's prison official, Sheriff Robert McGan, tightened the noose around Davis's neck by acting in accord with the Maryland congress-

<sup>27</sup> Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854. Note that this event does not appear in the court records presented in the April 27 issue of the *Pennsylvania Freeman*. It only appears in Davis's account in the issue cited here.

<sup>28</sup> Ibid. Bel Air is also spelled "Bell Air" in the accounts in the *Pennsylvania Freeman*.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid. The April 20 article does not indicate who Maitland was, just that Gaw wrote to him and was told that Maitland had died and that none of his family members knew Davis.

<sup>31</sup> Ibid.; and Burleigh et al., "The Slave Catching Outrage," *Pennsylvania Freeman*, Apr. 27, 1854. Davis and his first master's brother, Stevenson (also spelled "Stephenson") Archer, gave different names for the judge who tried Davis's first case. Davis's account in the April 20 issue of the *Pennsylvania Freeman* says that the judge's name was Grier, while Archer's account and the court records quoted in the April 27 issue have the judge's name as Bellingslea. I use Bellingslea here because it appears to be corroborated by other accounts and by other particulars in Davis's account. Note also that according to the 1839 statute, the Orphans' Court had the authority to try cases like Davis's when the County Court was not in session. See "Laws of Maryland.—1839," in *Archives of Maryland*, 141:2343; and cf. the certified deposition of C. W. Bellingslea in the "Slave Catching Outrage."

<sup>32</sup> Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854; cf. "The Slave Catching Outrage," *Pennsylvania Freeman*, Apr. 27, 1854. Quotation slightly modified.

<sup>33</sup> Ibid.; and "Laws of Maryland.—1839," in *Archives of Maryland*, 141:2343.

men, who, in revitalizing the 1839 black code, set the fines and fees well out of Davis's and other ordinary working black people's reach.<sup>34</sup> Indeed, as the *Pennsylvania Freeman* revealed, McGan created an environment of deception very much like that which the bounty hunters affiliated with the *Thomas and Edward* created. He deliberately sold Davis in a manner that was neither truly public nor transparent—a corruption of the implied spirit of the 1839 law made possible by the vagueness of its letter.

Although McGan did presumably advertise Davis's sale for the requisite ten days, he did not advertise it in the newspapers, the most public place possible.<sup>35</sup> That would easily have brought forth objections from Davis's family and friends across the border in Philadelphia, not to mention from Philadelphia's abolitionist community. Instead, McGan advertised Davis in a quiet manner that brought forth only one bidder, a man from Louisiana who was willing to take Davis out of state, as state representatives Brent, Gwinn, and McLane desired. Advertising Davis in this way was perfectly legal. The 1839 statute did not say that the sale of prisoners such as Davis had to be advertised in the newspapers; it only implied this.<sup>36</sup> Similarly, McGan also failed to bring Davis in front of the courthouse—the most appropriate place for the sale of a prisoner—in order to auction him off to the highest bidder, as the law required.<sup>37</sup> Selling Davis in front of the courthouse, though, would have made it clear to Davis that he was being sold and to whom. But again, as the law did not literally require this, McGan did not do so.<sup>38</sup> Instead, he allowed the sole bidder, Dr. John Archer, to observe Davis in jail in a way that Davis did not notice or fully understand.<sup>39</sup> As a result, Davis did not know that Archer had bought him on November 10, 1851, via an agent named John B. McFadden, who was acting on the express directions of the doctor's brother, Stevenson Archer.<sup>40</sup> Nor was

<sup>34</sup> "Laws of Maryland.—1831," and "Laws of Maryland.—1839," in *Archives of Maryland*, 141:1068–70, 2340–41, 2343.

<sup>35</sup> Burleigh et al., "The Slave Catching Outrage," *Pennsylvania Freeman*, Apr. 27, 1854; and "Laws of Maryland.—1839," in *Archives of Maryland*, 141:2343.

<sup>36</sup> "Laws of Maryland.—1839," in *Archives of Maryland*, 141: 2343.

<sup>37</sup> Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854; and "The Slave Catching Outrage," *Pennsylvania Freeman*, Apr. 27, 1854; cf. "Laws of Maryland.—1839," in *Archives of Maryland*, 141:2343.

<sup>38</sup> "Laws of Maryland.—1839," in *Archives of Maryland*, 141:2343.

<sup>39</sup> Burleigh et al., "The Slave Catching Outrage," *Pennsylvania Freeman*, Apr. 27, 1854; cf. Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854. Unlike Frederick Douglass, who was born a slave and thus would have understood this dynamic in the jail, Davis, a freeborn man, did not. See Douglass, *Narrative*, 60–61.

<sup>40</sup> Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854; and "The Slave Catching Outrage," *Pennsylvania Freeman*, Apr. 27, 1854.

Davis aware that he was John Archer's slave when he was put to work in a Baltimore slave pen, cooking for between fifty and sixty other slaves.<sup>41</sup> Davis was told that he was working to pay off his fine for violating the Maryland statute, not working to defray the cost of his board at the slave pen until Archer could have him sent to Louisiana.<sup>42</sup> McGan's point, then, was not to be clear; it was to minimize resistance by exploiting the lack of procedural precision in the letter of the law.

In the meantime, the owner of the slave pen, B. M. Campbell, was working on his own line of deception, a scheme aimed at separating Davis's new master from his slave. When Archer's agents came to retrieve Davis, Campbell claimed that Archer owed more money. Campbell said that he had discovered that Davis had been a criminal in Pennsylvania—something Burleigh's readers recognized immediately as a lie—and that Archer would have to pay a considerable penalty (presumably to the state of Maryland, Pennsylvania, or both) in order to transport Davis to Louisiana—another lie. Archer, whom Campbell suspected would want to sell Davis quickly, did just that via another agent, a Mr. Denning, who, on the instructions of Stevenson Archer, dispensed with Davis for fifty dollars. This allowed Campbell to acquire Davis in the cheapest possible manner. Campbell then sold Davis to William Dean, a Georgia planter and railroad entrepreneur, for \$300, a modest sum for a field hand, but a \$250 profit for himself. Campbell undoubtedly "kicked back" some of this money to his aiders and abettors in Harford County so that they would continue sending him such profitable opportunities. Thus, Davis became a nice source of revenue for the Baltimore slave trader; for the Georgia planter, who would literally work him to death on his railroad venture; for the original deceivers affiliated with the *Thomas and Edward*; and for the state of Maryland, particularly the head prison officials, the state treasuries, and the state colonization society, since they were all the beneficiaries of the 1839 black code.<sup>43</sup>

<sup>41</sup> Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854.

<sup>42</sup> Ibid.

<sup>43</sup> Burleigh et al., "The Slave Catching Outrage," *Pennsylvania Freeman*, Apr. 27, 1854. See also Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854; "Laws of Maryland.—1839," "Proceedings and Debates of the 1850 Constitutional Convention," and "The Maryland Constitution of 1851," in *Archives of Maryland*, 141:2343, 101:502–3, and 631:59–60. In regard to Campbell's deception, Stevenson Archer's statement before the court on April 16, 1854, indicates how Campbell attempted to extort money from John Archer in regard to Davis. Archer did not directly accuse Campbell of this offense, probably because his brother broke even on the sale of Davis to Campbell, and probably because his brother did not pay Campbell to keep Davis in the slave pen. Therefore, Archer simply made clear his brother's reasons for wanting to dispense with Davis.

This, however, was not the end of the abuse. After almost three years of wrongful enslavement, Davis escaped from Georgia by stowing away on the *Keystone State*, the Pennsylvania steamship that ran a regular route between Philadelphia and Savannah. As the ship steamed along the coast of Delaware, Davis was discovered and forced to endure two trials—one of which was a travesty—without any support from his family. Delaware, where both of his trials took place, seemed to be colluding with Maryland in precluding his mother and sister from visiting him in jail, even though they were only thirty-nine miles away from Newcastle, where he was held and tried.<sup>44</sup> Instead, Delaware welcomed the disreputable captain of the *Keystone State* so that he could thwart the release that Davis's first trial almost effected and make the case a matter for the new federal slave law—another source of profit for whites.

The first trial was a state case at which the white friends and/or employers of the Davis family testified. On the testimonies of Joanna Dimond, a white woman who had known Davis since he was two years old; Martha C. McGuire, Mrs. Dimond's sister, who had known Davis since he was twenty-five or twenty-six; and John H. Brady, a white man who had known Davis since he was twenty-eight, Delaware justice of the peace John Bradford declared that Davis be immediately released from custody in Newcastle. There was no reason why a free man of color should be imprisoned as a runaway slave. Before Davis could leave the prison, though, Robert Hardie, the captain of the *Keystone State*, came forward to declare that Davis was indeed a slave. Hardie first testified that Davis was his slave. When that did not work, he acquired a court-certified affidavit that declared that Davis was a fugitive slave from Georgia, a procedure made possible by the recent passage of the 1850 Fugitive Slave Law. With

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This incident, though, exposes other problems with the case and its official record that revealed bad faith and corruption on the part of the state. For example, several pieces of evidence were missing during the trial, including copies of the advertisement of Davis' sale, which Stevenson Archer testified were handwritten, not printed in the newspapers, as far as he knew, and legal documentation for Campbell's claim that Davis was a criminal in Pennsylvania, which was very likely fabricated so that Campbell could make money on Davis. Recognizing the fraud afoot in the case, Davis's Delaware attorneys—the Honorable John Wales of Wilmington, an abolitionist senator, and John C. Groome of Elkton, a slaveholder vehemently opposed to both abolitionists and the illegal acquisition of slaves—objected to the admission of Archer's testimony in regard to the advertisements of Davis's sale and alleged criminality because neither claim rested on submitted evidence.

<sup>44</sup> Burleigh et al., "Case of Edward Davis," *Pennsylvania Freeman*, Mar. 30, 1854; "Edward Davis," *Pennsylvania Freeman*, Apr. 6, 1854; "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854; "The Slave Catching Outrage," *Pennsylvania Freeman*, Apr. 27, 1854; and "Edward Davis," *Pennsylvania Freeman*, May 18, 1854.

this Davis was crushed by the full weight of slavery's pervasive and pernicious power.<sup>45</sup>

Aimed at balancing the economic and political interests of northern and southern whites, the 1850 Fugitive Slave Law favored the interests of southern slaveholders in part by providing measures that allowed them to recover their runaway slaves in a quicker, easier, and more effective manner than earlier federal slave laws had done.<sup>46</sup> It granted them and their agents the authority to apprehend and make legal property claims on any person of color fitting the description of their slave, as long as they presented court-certified affidavits or depositions to this effect.<sup>47</sup> As the veracity of such claims were entirely dependent upon the slaveholder or the slaveholder's representative, as well as the judge certifying the slaveholder's claims—in the Davis case, William Dean, Robert Hardie, and US Commissioner Samuel Guthrie, respectively—the 1850 Fugitive Slave Law effectively eliminated due process for individuals of color claimed as slaves. It prohibited them from testifying on their own behalves. In the interest of the slaveholder's desire for a speedy resolution, it also prohibited any other legal processes that might delay a quick recovery of the slave, such as a defendant's right to petition for release from unlawful imprisonment—the now well-known writ of habeas corpus—and right to a jury trial; legal action that might be pursued by another person or persons on behalf of the defendant; and judgments that might be made by other magistrates, judges, or courts as a result of all of these actions. Davis only received the trial under Bradford—and was only able to testify on his own behalf during that trial—because his case had not yet been determined as a fugitive slave case under the federal statute. Once it was turned over to Commissioner Guthrie, Davis was no longer allowed to testify, nor was he granted any

<sup>45</sup> Ibid. Captain Hardie's last name also appears in the newspapers as "Hardy." Cf. Hardie's claims as outlined in the March 30, April 20, and April 27 issues of the *Pennsylvania Freeman*, e.g., with: "The Fugitive Slave Law of 1850," in Lowance, *Against Slavery*, 325–31; Wilbur H. Siebert, *The Underground Railroad from Slavery to Freedom* (New York, 1898; repr., North Stratford, NH, 2000), 309–15, 361–66 (appendix A contains a copy of the 1850 Fugitive Slave Law); Leon F. Litwack, *North of Slavery: The Negro in the Free States, 1790–1860* (Chicago, 1961), 248–49; and James Oliver Horton and Lois E. Horton, *In Hope of Liberty: Culture, Community, and Protest Among Northern Free Blacks, 1799–1860* (New York, 1997), 252–53.

<sup>46</sup> Michael F. Holt, *The Political Crisis of the 1850s* (New York, 1978 and 1983), 67–99, esp. 82–99; James Oakes et al., eds., *Of the People: A History of the United States*, concise ed. (New York, 2011), 396–98; and James West Davidson et al., eds., *Nation of Nations: A Narrative History of the American Republic* (New York, 1991), 518–20.

<sup>47</sup> Sections 6 and 10 of the law in Lowance, *Against Slavery*, 327–28 and 330–31; and Siebert, *The Underground Railroad*, 363–64 and 365–66.

rights other than defense. Furthermore, the judgment rendered by Justice Bradford, which established Davis's freedom, was overturned.<sup>48</sup>

The 1850 slave law did not stop there in eliminating due process for blacks like Davis. It also made it difficult for anyone—black, white, or otherwise—to help a person or persons caught in such a trap. Like its Maryland counterpart, it severely fined and prosecuted marshals and deputies who refused to carry out warrants or who allowed alleged slaves to escape.<sup>49</sup> It forced citizens and bystanders to participate in the recapture of alleged fugitives on pain of criminal prosecution, something civil disobedience advocate Henry David Thoreau objected to vigorously in his "racy" antislavery speech, "Slavery in Massachusetts."<sup>50</sup> And it criminalized any person who willingly helped said fugitives to escape, particularly if the individual knew that these persons had been identified as runaway slaves.<sup>51</sup> Stiff fines and substantial prison sentences were the consequences of such compassion.<sup>52</sup> So too was the seizure of an offender's property, because helping a slave or purported slave to escape was equivalent to making the slaveholder lose the value of the slave, as well as the slave's services.<sup>53</sup> These provisions no doubt gave Captain Hardie a legal excuse for declaring Davis to be a fugitive slave; Davis had secreted himself onto Hardie's ship, making Hardie and the owners of the *Keystone State* liable to William Dean and the law for helping Davis to escape. Hardie knew, though, that he would be rewarded by Dean, the Georgia planter and railroad entrepreneur, for turning Davis in to the law, which is undoubtedly why he was so intent on doing so.<sup>54</sup>

Finally, the 1850 Fugitive Slave Law also gave Commissioner Guthrie a legal excuse for ruling against Davis. It essentially rewarded federal commissioners and judges for taking on fugitive slave cases and particularly

<sup>48</sup> Section 6 of the law in Lowance, *Against Slavery*, 328; and Siebert, *The Underground Railroad*, 363–64. Cf. Burleigh et al., "The Case of Edward Davis," *Pennsylvania Freeman*, Apr. 20, 1854; and "The Slave Catching Outrage," *Pennsylvania Freeman*, Apr. 27, 1854.

<sup>49</sup> Section 5 of the law in Lowance, *Against Slavery*, 326; and Siebert, *The Underground Railroad*, 362.

<sup>50</sup> Section 5 of the law in Lowance, *Against Slavery*, 326–27; and Siebert, *The Underground Railroad*, 362–63; Henry David Thoreau, "Slavery in Massachusetts," *Liberator*, July 21, 1854, p. 4, cols. 2–5. Famous abolitionist editor William Lloyd Garrison dubbed Thoreau's speech "racy" in "The Meeting at Framingham," *Liberator*, July 7, 1854, p. 2, col. 5.

<sup>51</sup> Section 7 of the law in Lowance, *Against Slavery*, 328–29; and Siebert, *The Underground Railroad*, 364.

<sup>52</sup> *Ibid.*

<sup>53</sup> *Ibid.*

<sup>54</sup> According to the April 27, 1854, issue of the *Pennsylvania Freeman*, the Philadelphia and Savannah Steam Company supported Hardie legally, in spite of their reputation for being humane and honorable. They were worried about being held liable for helping Davis, so they retained a lawyer named Keyser, who was present at the trial, and who was ready to defend them and Hardie, if needed.

rewarded them for remanding blacks to slavery.<sup>55</sup> They received ten dollars, or about a week's pay, when they ruled in favor of the slaveholder, and only five dollars when they did not.<sup>56</sup> In light of the Davis case, then, the federal government solidified the union of commercial interests and race prejudice. As Victor Hugo put it in his reaction to the execution of John Brown, Davis's "emancipation" had clearly "been assassinated by" white entrepreneurs' unchecked "liberty."<sup>57</sup> The convergence of this federal law, aimed at runaway slaves, with the black codes of middle states, aimed at free people of color, made black freedom impossible. It is no wonder, then, that young Frances Ellen Watkins—a woman of color living at the border of Pennsylvania, Maryland, Delaware, and New Jersey—was radicalized by this case. The level of fraud for the sake of money and power was simply stunning.

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<sup>55</sup> Section 8 of the law in Lowance, *Against Slavery*, 329–30; Siebert, *The Underground Railroad*, 364–65; and Litwack, *North of Slavery*, 248.

<sup>56</sup> Section 8 of the law in Lowance, *Against Slavery*, 329–30; Siebert, *The Underground Railroad*, 364–65; and Margo, *Wages and Labor Markets*, table 3A.7.

<sup>57</sup> Hugo to the editor of the *London News*, Dec. 2, 1859, in *Echoes of Harper's Ferry*, ed. James Redpath (Boston, 1860; repr. Westport, CT, 1970), 102. Based on an earlier draft of this essay, Mooney used this letter in a work on American philosophy. See Edward F. Mooney, "On Victor Hugo's Plea," in *Lost Intimacy in American Thought: Recovering Personal Philosophy from Thoreau to Cavell* (New York, 2009), 219.