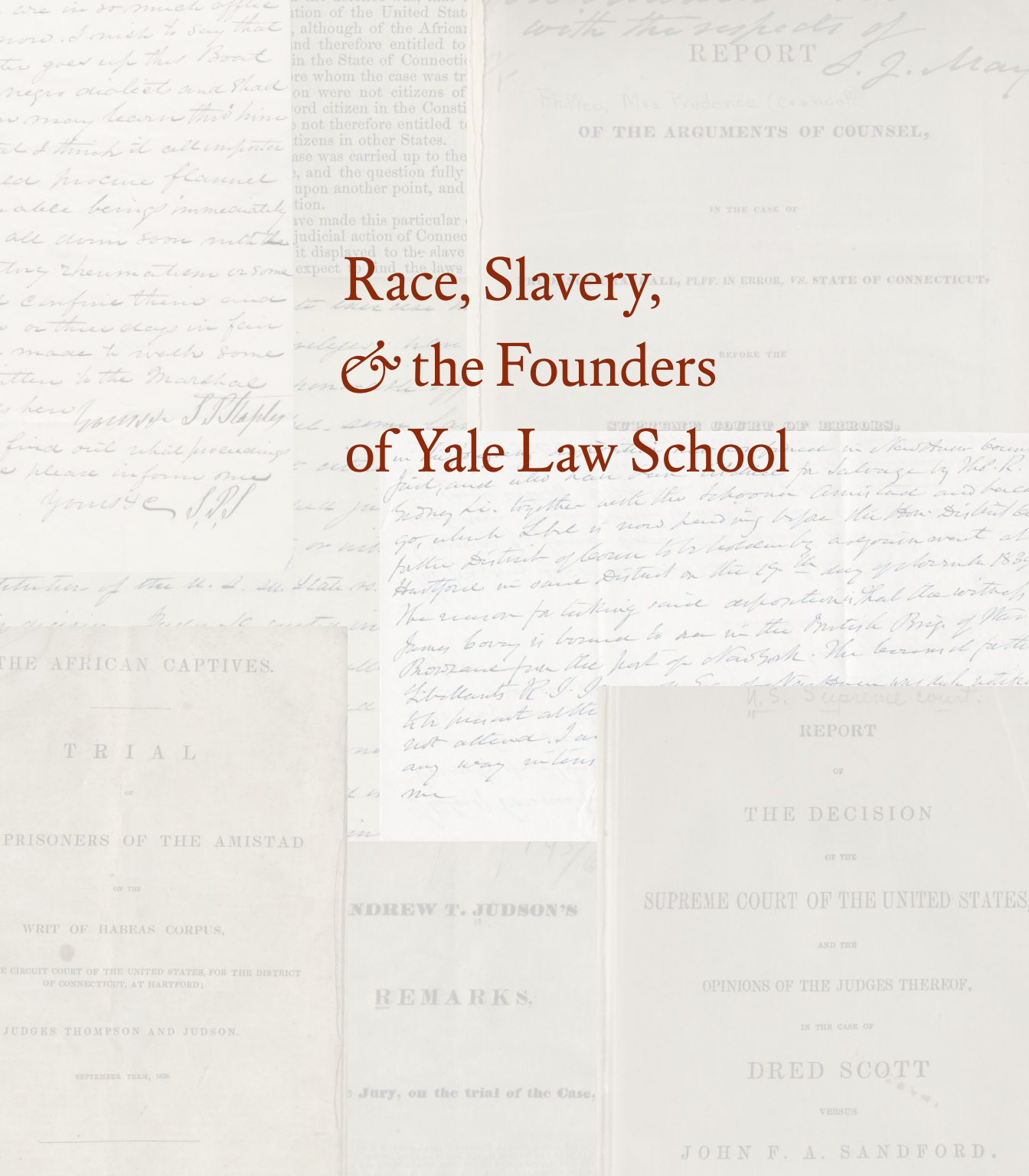
Race, Slavery,
& the Founders
of Yale Law School
REPORT
OF THE ARGUMENTS OF COUNSEL,
IN THE CASE OF
BEFORE THE
SUPREME COURT OF ERRORS.
THE AFRICAN CAPTIVES.
TRIAL
OF
PRISONERS OF THE AMISTAD
ON THE
WRIT OF HABEAS CORPUS,
JUDGES THOMPSON AND JUDSON.
SEPTEMBER TERM, 1839.
ANDREW T. JUDSON'S
REMARKS,
Jury, on the trial of the Case.
U. S. Supreme Court.
REPORT
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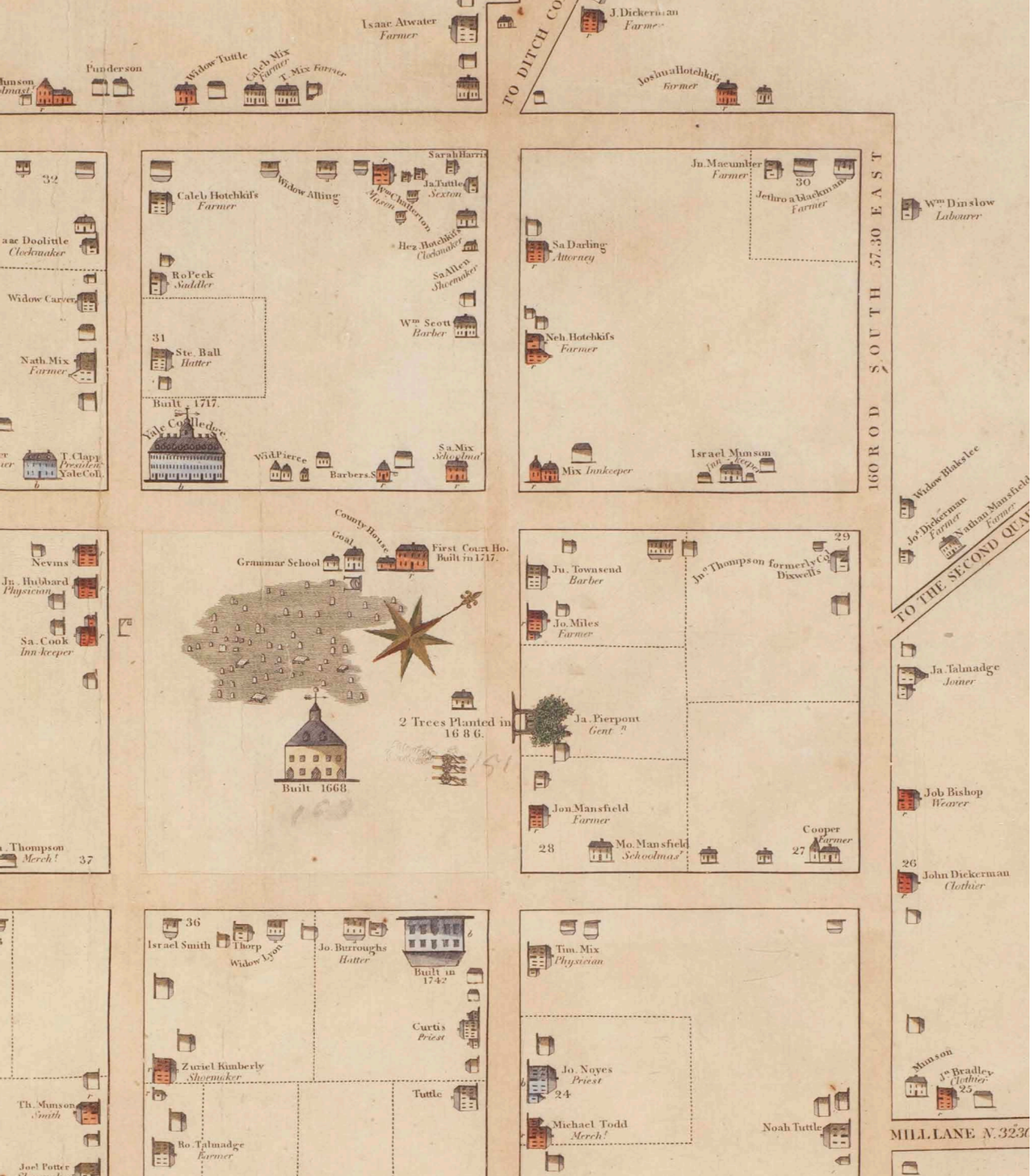


Race, Slavery, & the Founders of Yale Law School

An exhibition curated by Kathryn James and Fred Shapiro

On view in the Panzus-Danziger Rare Book Room exhibition space on level two of the Lillian Goldman Law Library, Yale Law School

SEPTEMBER 28 — DECEMBER 21, 2022

"Jethro a blackman, Farmer." Detail, *Plan of the Town of New Haven With All of the Buildings in 1748.* New Haven, 1806. The New Haven Museum, 2008 112. The map shows the location of the freedman Jethro Luke's property on what is now the Jean Pope Memorial Park, facing the Yale Law School. While enslaved, Luke had been employed in the construction of Yale College's Connecticut Hall. Originally produced in manuscript in 1748, the image was engraved in 1806 by Thomas Kensett, husband to Elizabeth Daggett. It offers one example of the complex histories of race and slavery within the the university and New Haven communities. For further information on Jethro Luke, see Michael Morand, "Reckoning with History: the 1748 Map of New Haven," February 15, 2021; youtube.com/watch?v=RTN119LY1ZY.

Yale

clockwise, from top left

Seth Perkins Staples (1776–1861).

Samuel Johnson Hitchcock (1786–1845) with his library.

David Daggett (1764–1851).

Portraits by Jared Bradley Flagg. From the collections of the Yale Law School.

Foreword

In 1824, the Yale College catalog included the names of some of the students of the private law academy established in New Haven by Seth Perkins Staples, B.A. 1797, and later overseen by Samuel Hitchcock, B.A. 1809, and David Daggett, B.A. 1783. This moment marks one of the earliest associations of the New Haven law school with Yale College, a relationship that was later formalized by the establishment of Yale Law School.

What was the role of slavery in the lives, work, and law instruction of the founders of the Yale Law School? This exhibition represents only one of many possible responses, as a contribution to a broader discussion of this question. It takes as its point of entry the founders' involvement in two of the formative law cases relating to slavery and race in antebellum America: in 1831, the trial of Prudence Crandall for admitting young Black girls as students in her Connecticut school; and in 1839–41, the trial of the West African men and children, victims of an illegal slave trade, who had seized control of their transport ship, the Spanish *L'Amistad*.

These two cases were situated within the New Haven and New England law communities and against a broader national context. The same decade that saw the Prudence Crandall and *Amistad* cases also brought the fierce opposition by Daggett, Hitchcock, and other white New Haven eminences to the establishment of a "Negro College." In 1833, the "Black Law" prohibited the teaching of any Black student not resident in a Connecticut town without the town's permission. Years later, in 1857, Daggett's ruling in the Prudence Crandall case would be prominently cited as a precedent in the *Dred Scott v. Sandford* decision.

In following the work of Daggett, Staples, and Hitchcock through these two cases and their consequences, the exhibition makes visible the ways in which white abolitionist and pro-slavery advocates worked with and alongside each other within a law community and within a world informed by racism and white supremacy. Drawing on original documents and contemporary publications, the exhibition traces the work of

David Daggett, Seth Perkins Staples, and Samuel Hitchcock and their long influence on American law through the twentieth century.

A note on language: we have, where possible, relied on historical documents; our citations from these texts include the often painfully racist language of that period. We have also elected to use the term "Black," rather than to adopt the term "African" used in many of the documents shown here or to use the term "African American."

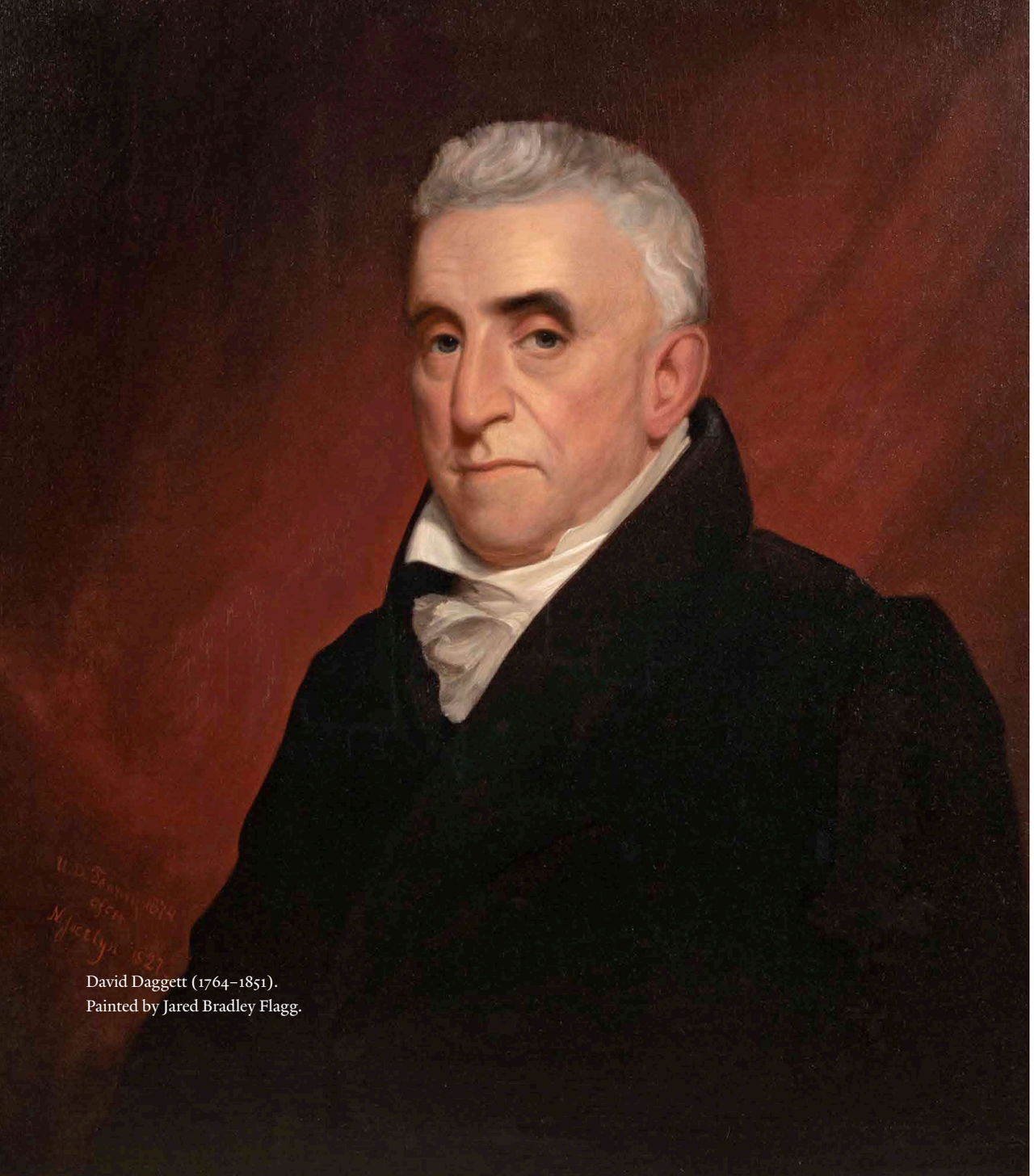
Kathryn James
Fred Shapiro

Introduction

This exhibit examines historical facts relating to the founders of Yale Law School, race, and slavery. There were three founders: Seth Perkins Staples (1776–1861), Samuel J. Hitchcock (1786–1845), and David Daggett (1764–1851). Of the three, Staples was an active abolitionist. Daggett and Hitchcock, in contrast, had records that included opposition to radical abolitionism and support for racist efforts to exclude Black people from the community. Early in his adult life, Daggett owned at least two enslaved persons.

The roots of Yale Law School trace to a private law school operated by Seth Staples in his New Haven law office, beginning sometime in the early years of the nineteenth century. In 1820, Staples brought in a former student of his, Samuel Hitchcock, as proprietor of what was called "the New Haven Law School." Staples moved to New York City in 1824. In that year, David Daggett became a co-proprietor of the school. Daggett was a former speaker of the Connecticut House of Representatives and United States senator, and later an associate justice and chief justice of the Connecticut Supreme Court and mayor of New Haven.

Yale Law School's origin is traditionally dated 1824 because that is when a separate listing for "Law Students," including some from the Staples-Hitchcock school, began to appear in the Yale College catalogue. In 1826, Daggett became Kent Professor of Law in Yale College. Professor John Langbein has suggested that 1826 is the true beginning of Yale Law School. Hitchcock was the primary instructor in the Law School (while also, for two years, being New Haven's Mayor) until his death in 1845. Daggett taught until he retired in 1847.



David Daggett (1764–1851).
Painted by Jared Bradley Flagg.

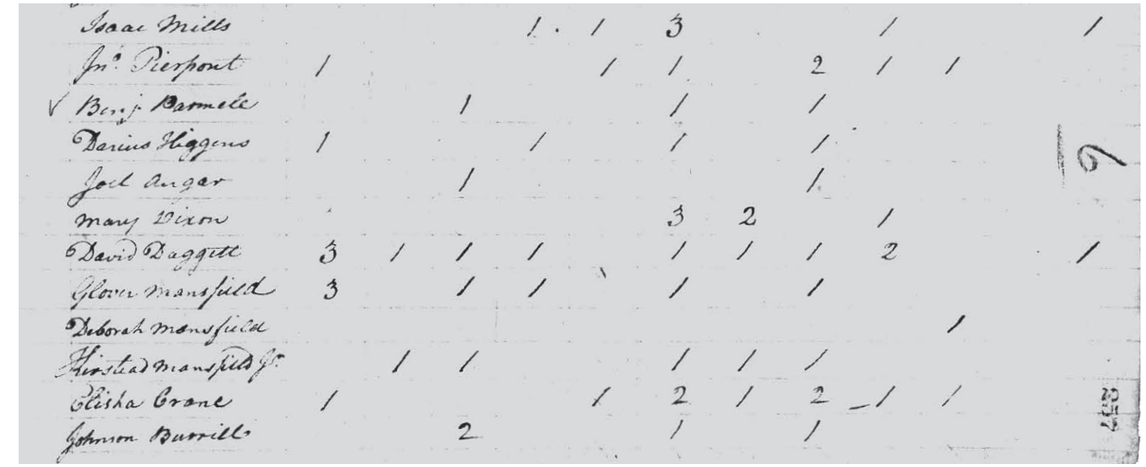
"Slaves"

The early United States Censuses, for each person recorded, included a column headed "Slaves." The 1800 Census for New Haven County, city of New Haven, listed future Yale Law School founder David Daggett. After his name, in the "Slaves" column (the column to the extreme right in the image below), the number "1" is written, indicating that Daggett had one enslaved person in his household. Censuses for other decades do not have any numbers for Daggett in the "Slaves" column (Source: familysearch.org).

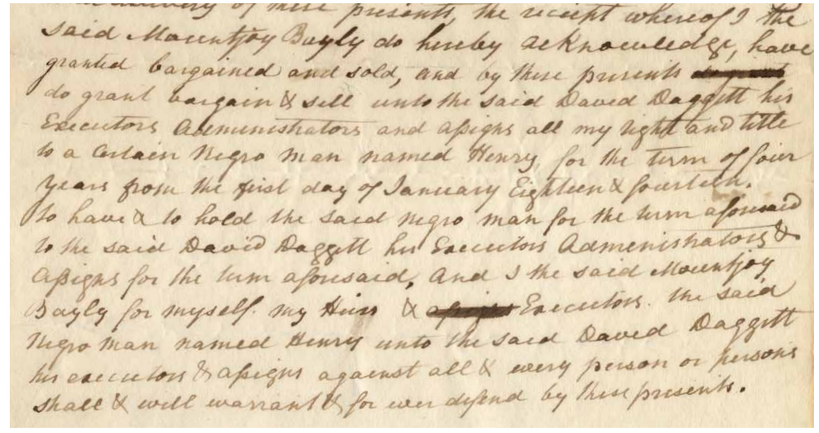
A bill of sale (shown p. 10) marks the February 1814 purchase by Daggett from Mountjoy Bayly of the "rights and title to a certain Negro man named Henry" for a period of four years. At least one member of Daggett's family was also a slaveholder, as witnessed by a letter to Daggett concerning the kidnapping in 1793 of an enslaved person belonging to Daggett's brother.[1]

Detail of the census record of 1800 showing that David Daggett had an enslaved person in his household. The United States Census Bureau, 1800.

1 Peter Freneau to David Daggett, January 14 and June 24, 1793. Manuscripts and Archives, Yale University, MS 162, Box 4, Folder 129.



Detail of a bill of sale for the rights to a man named Henry, from Mountjoy Bayly to David Daggett. Washington, D.C., February 1, 1814. Manuscripts and Archives, Yale University, MS 162, Box 14, Folder 1.

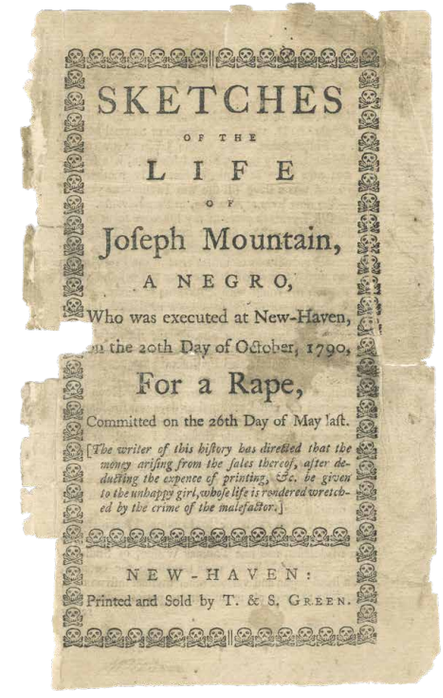


Sketches of the Life of Joseph Mountain

In 1790, a pamphlet titled *Sketches of the Life of Joseph Mountain* was published in New Haven. This was purportedly dictated by Mountain to a young lawyer, future Yale Law School founder David Daggett. Historian Richard Slotkin has written that "The narrative was probably fabricated in large part by David Daggett."[2]

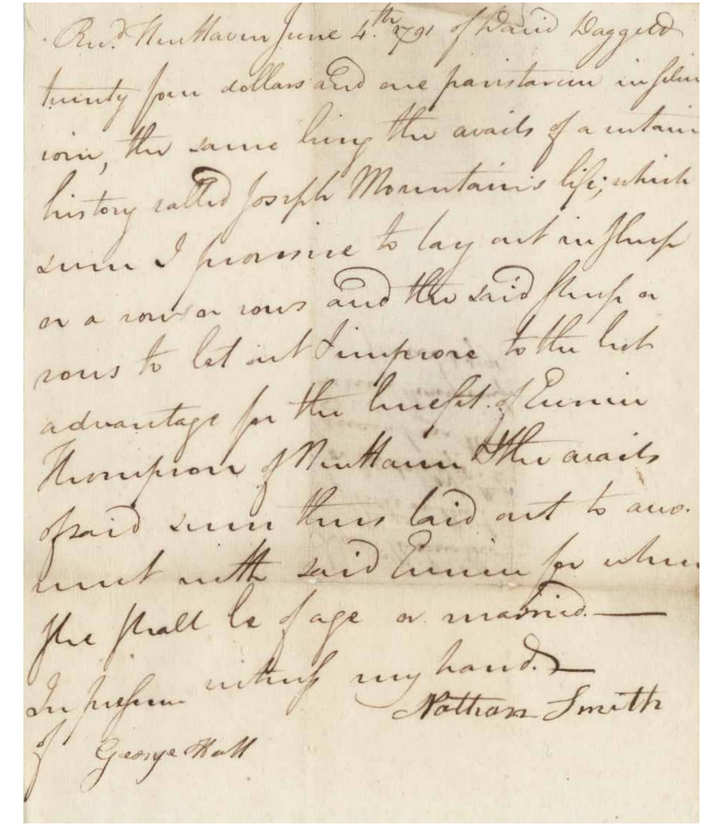
Joseph Mountain (1758–1790) was a free Black man who went to England, became a sailor, and engaged in various criminal activities. In 1789, he was arrested in Connecticut for the rape of Eunice Thompson, although this was probably a false accusation. The next year, he was executed before a crowd of some 10,000 people in New Haven. Slotkin argued that a literary genre of "criminal confessions" or biographies of Black people helped spread the prevalent myth of the Black rapist. Daggett's Mountain book was a best-selling example of that genre. A receipt to Daggett marks his donation of "the avails of a certain history called Joseph Mountain's life" to be given "for the benefit of Eunice Thompson of New Haven."

2 Richard Slotkin, "Narratives of Negro Crime in New England, 1765–1800," *American Quarterly* no. 25 (1973): 26.



SKETCHES
OF THE
LIFE
OF
Joseph Mountain,
A NEGRO,
Who was executed at New-Haven,
on the 20th Day of October, 1790,
For a Rape,
Committed on the 26th Day of May last.
[The writer of this history has directed that the money arising from the sales thereof, after deducting the expence of printing, &c. be given to the unhappy girl, whose life is rendered wretched by the crime of the malefactor.]
NEW-HAVEN:
Printed and Sold by T. & S. Green.

David Daggett, *Sketches of the life of Joseph Mountain, a Negro, who was executed at New-Haven, on the 20th day of October, 1790, for a rape, committed on the 26th day of May last* (New Haven: T. & S. Green, [1790]). Beinecke Rare Book and Manuscript Library, *JWJ Zan M864 790S.*



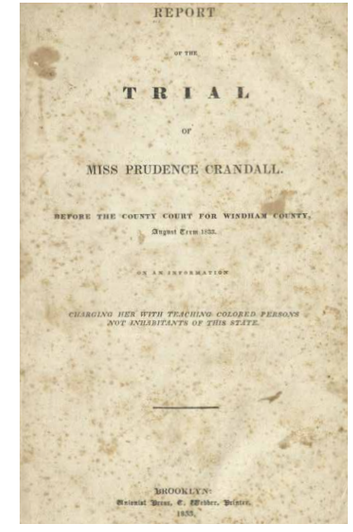
Receipt from Nathan Smith to David Daggett for "the avails of a certain history called Joseph Mountain's life." New Haven, June 4, 1791. Manuscripts and Archives, Yale University, MS 162, Box 14, Folder 1.

Portrait of Prudence Crandall by Francis Alexander. Boston, 1834. Division of Rare and Manuscript Collections, Cornell University Library.

"a perversion of terms"

Prudence Crandall was a schoolteacher living in Canterbury, Connecticut. In 1831 she founded the Canterbury Female Boarding School, instructing some forty children. Exposure to the abolitionist newspaper *The Liberator* led her to consider "the manner in which I might best serve the people of color." That opportunity came to her in 1832, when Sarah Harris, the daughter of a free Black farmer, applied to Crandall's school. Crandall admitted Harris, thus creating the first racially integrated school in the country.

The residents of Canterbury reacted to the integration of the school by beginning to withdraw their daughters. Crandall consulted with prominent abolitionists and proceeded to recruit other Black girls as students. In 1833 she reopened, this time establishing the first school for


REPORT

OF THE

TRIAL

OF

MISS PRUDENCE CRANDALL.

BEFORE THE COUNTY COURT FOR WINDHAM COUNTY,

August Term 1833.

ON AN INFORMATION

CHARGING HER WITH TEACHING COLORED PERSONS NOT INHABITANTS OF THIS STATE.

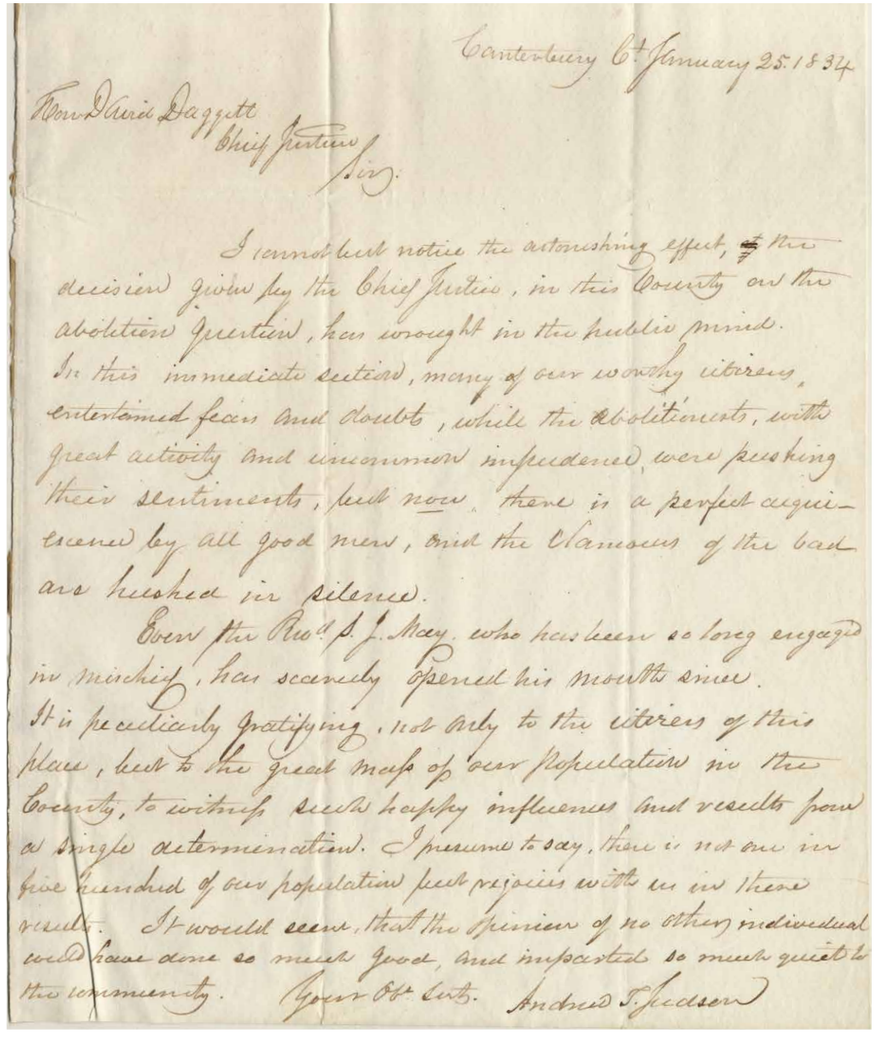
BROOKLYN:

Report of the trial of Miss Prudence Crandall, before the County Court for Windham County, August term 1833, on an information charging her with teaching colored persons not inhabitants of this state (Brooklyn, CT: Unionist Press, 1833). Lillian Goldman Law Library, *TrialsB P538r.*

Black girls in the United States. The Connecticut General Assembly then passed a "Black Law" banning the operation of any school instructing Black students from out of the state without permission of the town. Canterbury would later embark on a campaign of harassment and violence, including attempting to set the school on fire and poisoning its well with animal feces, leading Crandall to leave the state.

Before having to close the school, Prudence Crandall became the focus of landmark legal proceedings. She was arrested under the Black Law in July 1833 and jailed overnight. In August her first trial began and the defense challenged the constitutionality of the Black Law. After the jury was unable to agree on a verdict, a second trial commenced in Brooklyn, Connecticut, with Connecticut Chief Justice and Yale Law School founder David Daggett presiding. Daggett's charge to the jury stated that "The persons contemplated in this act are *not citizens* within the obvious meaning of that section of the constitution of the *United States.*" By this he meant not only enslaved persons, but also free Black people as well. "To my mind," he concluded, "it would be a perversion of terms … to say, that slaves, free blacks, or *Indians,* were citizens, within the meaning of that term, as used in the constitution." The jury this time found Crandall guilty.

Prudence Crandall appealed the case to the Supreme Court of Errors of the State of Connecticut in 1834. The four judges there included Daggett, who was in the unusual position of reviewing an appeal of a lower-court case that he himself had presided over. Daggett exerted his influence on the other judges, all three of whom thought that the Black Law was unconstitutional. The three disagreed with Daggett in the sense that they overturned Crandall's conviction on a technicality. However, they evaded discussing the constitutionality of the law. The Black Law stood, and Daggett's jury charge that Black people could not be citizens was not questioned. Twenty-three years later, in the infamous case *Dred Scott v. Sandford,* the United States Supreme Court would cite Daggett's words to support its conclusion that people of African descent could not be citizens of the United States.



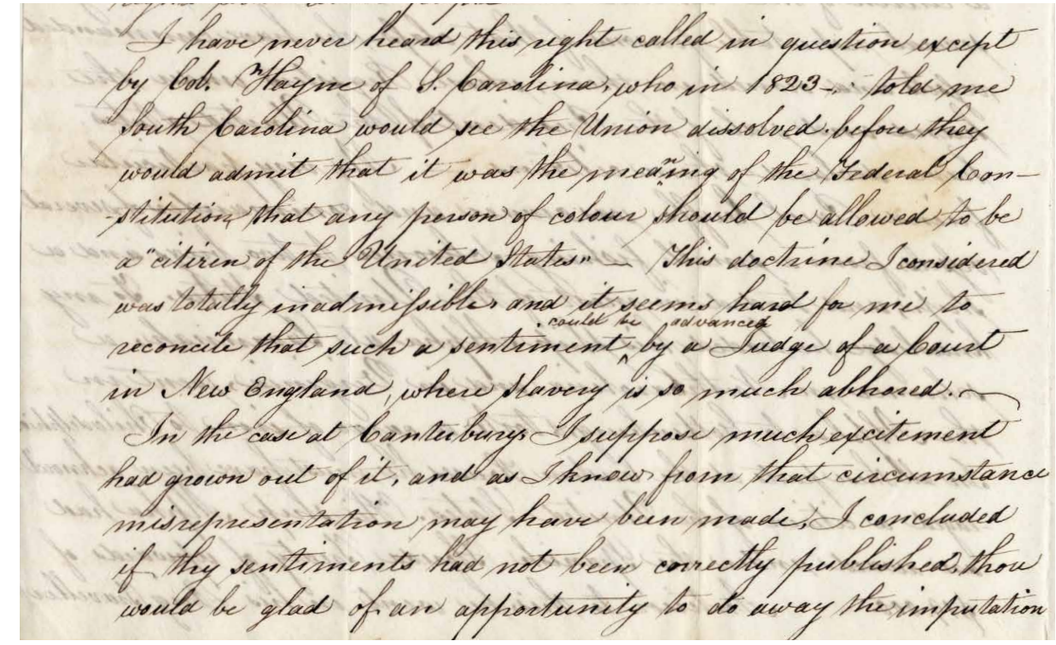
Canterbury Ct. January 25. 1834

Hon. David Daggett
Chief Justice
Sir.

I cannot but notice the astonishing effect of the decision given by the Chief Justice, in this County on the abolition question, has wrought in the public mind. In this immediate section, many of our worthy citizens, entertained fears and doubts, while the abolitionists, with great activity and uncommon impudence, were pushing their sentiments, but now there is a perfect acquiescence by all good men, and the clamours of the bad are hushed in silence.

Even the Revd. S. J. May, who has been so long engaged in mischief, has scarcely opened his mouth since. It is peculiarly gratifying, not only to the citizens of this place, but to the great mass of our population in the County, to witness such happy influences and results from a single determination. I presume to say, there is not one in five hundred of our population but rejoices with us in these results. It would seem, that the opinion of no other individual could have done so much good, and imparted so much quiet to this community. Your Obt. Servt. Andrew T. Judson

A letter from Andrew Judson to Daggett detailing the effect of his decision on abolitionists in the region, January 25, 1834. Manuscripts and Archives, Yale University, MS 162, Box 6, Folder 184.



I have never heard this right called in question except by Col. Hayne of S. Carolina, who in 1823 told me South Carolina would see the Union dissolved, before they would admit that it was the meaning of the Federal Constitution that any person of colour should be allowed to be a "citizen of the United States" — This doctrine I considered was totally inadmissible and it seems hard for me to reconcile that such a sentiment could be advanced by a Judge of a Court in New England, where slavery is so much abhorred. —

In the case at Canterbury I suppose much excitement has grown out of it, and as I know from that circumstance misrepresentation may have been made, I concluded if my sentiments had not been correctly published, I would be glad of an opportunity to do away the imputation

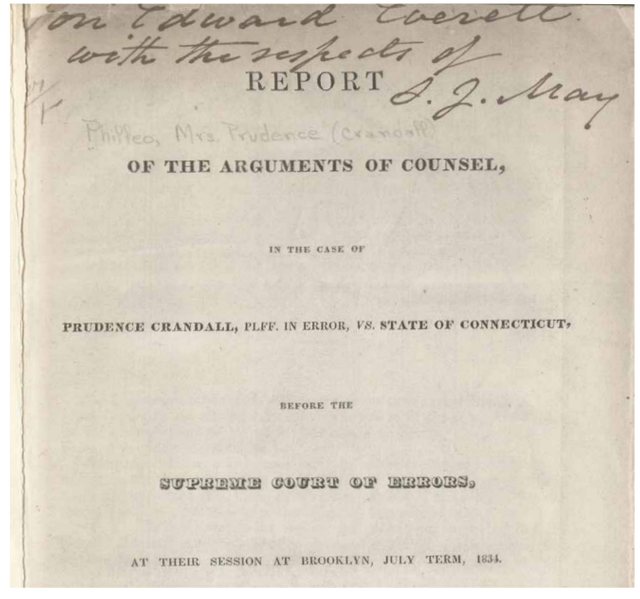
Detail of a letter from William Rotsch to Daggett rebuking him for his decision in the Prudence Crandall case, January 11, 1834. Manuscripts and Archives, Yale University, MS 162, Box 9, Folder 254.

Even in 1834, the impact of the decision was tremendous, as can be seen in a letter to Daggett from Andrew Judson, remarking on the "astonishing effect the decision … has wrought in the public mind." Judson describes the dismay felt by abolitionists in the wake of the decision: "In this immediate section [of the county], many of our worthy citizens entertained fears and doubts, while the abolitionists, with great activity and uncommon impudence, were pushing their sentiments, but now there is a perfect acquiescence by all good men, and the clamour of the bad are hushed in silence." Writing to rebuke Daggett for his decision, William Rotsch remarked that he had never heard the right to citizenship called in question except by South Carolina secessionists. "It seems hard for me to reconcile that such a sentiment could be advanced by a Judge of a Court in New England, where slavery is so much abhorred," he wrote.

"is or is not a citizen of the United States"

David Daggett's role in the 1834 appeal of Prudence Crandall's lower-court conviction to the Connecticut Supreme Court went beyond his own support of the constitutionality of the Connecticut Black Law. We can infer this because of evidence from 1865. In that year the Connecticut General Assembly passed a resolution requesting the judges of the state Supreme Court to give their opinion on the question "whether a negro is or is not *a citizen of the United States.*" In response the judges affirmed the citizenship of Black people. That opinion, when published in the official *Connecticut Reports,* was accompanied by a remarkable footnote written by the reporter of the court, John Hooker.

The footnote explained that the four judges in the *Crandall* appeal were Daggett, Williams, Bissell, and Church. It went on: "It appears by minutes of the consultation taken by Judge Bissell, and found since his death among his papers, and which the writer has had an opportunity


from Edward Everett.
with the respects of
REPORT
S. J. May
Phillips, Mrs. Prudence (Crandall)
OF THE ARGUMENTS OF COUNSEL,
IN THE CASE OF
PRUDENCE CRANDALL, PLFF. IN ERROR, VS. STATE OF CONNECTICUT,
BEFORE THE
SUPREME COURT OF ERRORS,
AT THEIR SESSION AT BROOKLYN, JULY TERM, 1834.

Detail, *Report of the arguments of counsel, in the case of Prudence Crandall, Plff. in Error, vs. State of Connecticut* (Boston: Garrison & Knapp, 1834). Lillian Goldman Law Library, *TrialsB P538p.*

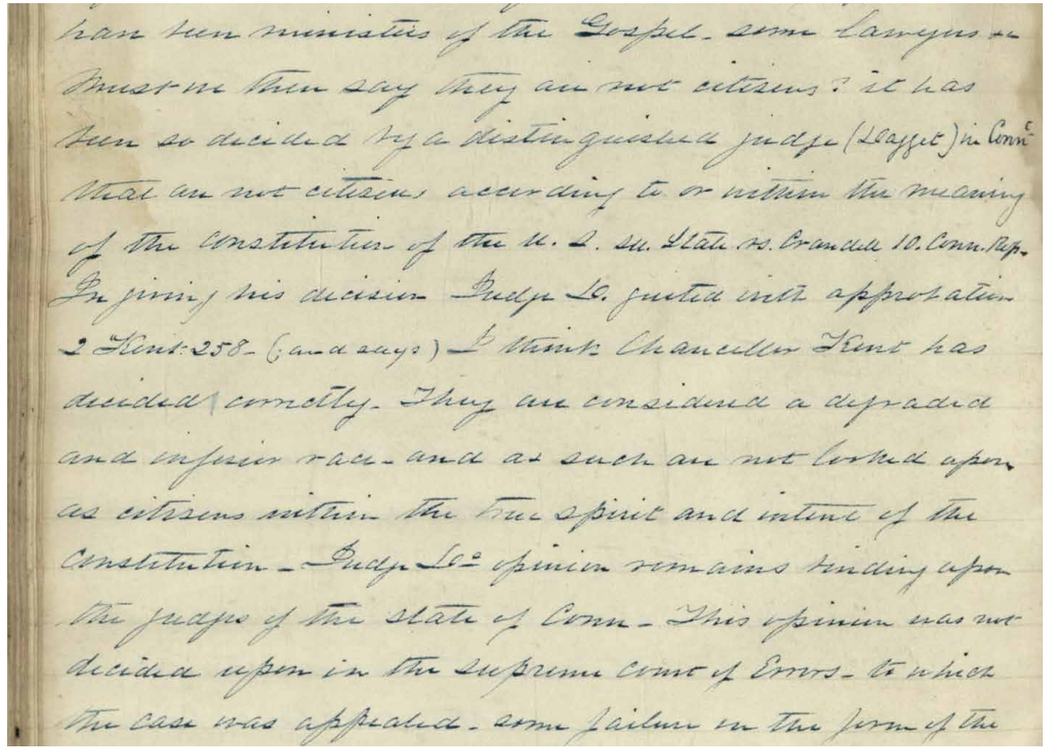
to examine, that the question of the citizenship of free blacks was discussed at considerable length by the judges, and that while Judge Daggett adhered to the opinion expressed by him in the superior court, all the other judges either held or inclined to the opinion that they were citizens." The reporter's footnote also quoted an 1857 letter by Judge Williams: "All of us differed from the Chief Justice … For myself I must say that I did not then doubt, nor since have doubted, that our respected friend was wrong in his charge to the jury." Yet the other judges refrained from breaking with the Chief Justice on the crucial issue of constitutionality, perhaps because of deference they felt toward him.

"Must we … say they are not citizens?"

One of the oldest surviving volumes of Yale Law School student lecture notes is titled "Lectures of Hon. Samuel J. Hitchcock" and dates from 1844–45. In his notes on Lecture 10, the student has recorded the words of the Yale Law School founder as follows:

> "Must we … say they [colored" men] are not citizens? It has been so decided by a distinguished judge (Dagget) in Conn.— that are not citizens according to or within the meaning of the Constitution of the U.S. see State vs. Crandall 10 Conn. Rep.... Judge D.'s opinion remains binding upon the judges of the state of Conn.... It is upon this principle then that the laws recently passed by S.C., Ga. & Md. can be supported. Decisions upholding Judge D.'s position may be found in [citations to Tenn., Pa., N.C. cases]. The cases cited comprise about all the adjudications known of in the U.S. concerning the matter, and they go to favor the idea that colored persons under the Constitution are not citizens."

It may be that Hitchcock was not expressing his own sentiments but rather was summarizing the state of the law at the time or parroting the sentiments of his more famous colleague David Daggett. On the

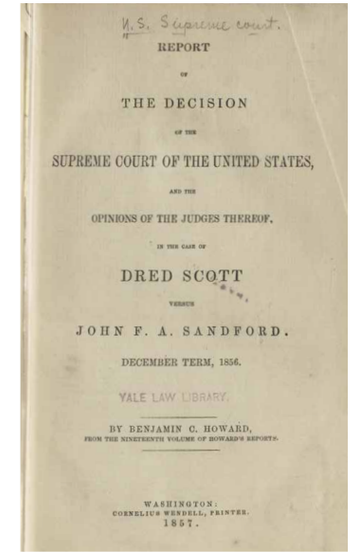


Detail, "Lectures of Hon. Samuel J. Hitchcock delivered to the students of the Yale Law School during sessions of 1844–5." A manuscript volume, transcribed by Horace Bull, from the notes of Isaac Louis Kinzer. New Haven, 1845. Lillian Goldman Law Library, *MssB Y12 1845*.

other hand, the absence of criticism or questioning of Daggett's ruling is notable at a time when Black citizenship was a highly controversial subject.

"persons of that description were not citizens of a State"

The United States Supreme Court case of *Dred Scott v. Sandford,* 60 U.S. 393 (1856), is generally regarded as one of the most notorious decisions in the history of that Court. The Court asserted that Black people could not be citizens of the United States and that slavery could not be outlawed in the territories. This decision played a major part in bringing about the American Civil War.


U.S. Supreme court.

REPORT

OF

THE DECISION

OF THE

SUPREME COURT OF THE UNITED STATES,

AND THE

OPINIONS OF THE JUDGES THEREOF,

IN THE CASE OF

DRED SCOTT

VERSUS

JOHN F. A. SANDFORD.

DECEMBER TERM, 1856.

BY BENJAMIN C. HOWARD,

FROM THE NINETEENTH VOLUME OF HOWARD'S REPORTS.

WASHINGTON:

CORNELIUS WENDELL, PRINTER.

1857.

Benjamin C. Howard, *A report of the decision of the Supreme Court of the United States, and the opinions of the judges thereof, in the case of Dred Scott versus John F.A. Sandford: December term, 1856* (New York: D. Appleton, 1857). Lillian Goldman Law Library, *TrialsB Sco83H 1857a, copy 2.*

In Chief Justice Roger Taney's opinion in *Dred Scott,* a prominent citation was the following reference to Yale Law School founder David Daggett:

> "And it appears by the case of *Crandall v. The State,* reported in 10 Conn. Rep. 340, that upon an information filed against Prudence Crandall for a violation of this law, one of the points raised in the defence was that the law was a violation of the Constitution of the United States, and that the persons instructed, although of the African race, were citizens of other States, and therefore entitled to the rights and privileges of citizens in the State of Connecticut. But Chief Justice Dagget, before whom the case was tried, held that persons of that description were not citizens of a State, within the meaning of the word citizen in the Constitution of the United States, and were not therefore entitled to the privileges and immunities of citizens in other States." (60 U.S. 415)

Taney went on to argue that if Connecticut, well-known to be as "lenient and favorable" to Black people as any state in the Union, did not regard them as citizens, then that status could not be expected to be recognized in any other state or territory. Arguably, David Daggett's words in the Prudence Crandall case had their greatest impact through the citation in *Dred Scott v. Sandford.*

"a very strong hostility"

Yale Law School founders David Daggett and Samuel J. Hitchcock were among the leaders in two important meetings in New Haven in the 1830s (Daggett in both meetings, Hitchcock in one). The first meeting was called in 1831 to oppose a project of founding a "Negro college" in New Haven, a school that would have been the first college in the country for Black students. The resolutions against the college passed overwhelmingly, and it never became a reality.

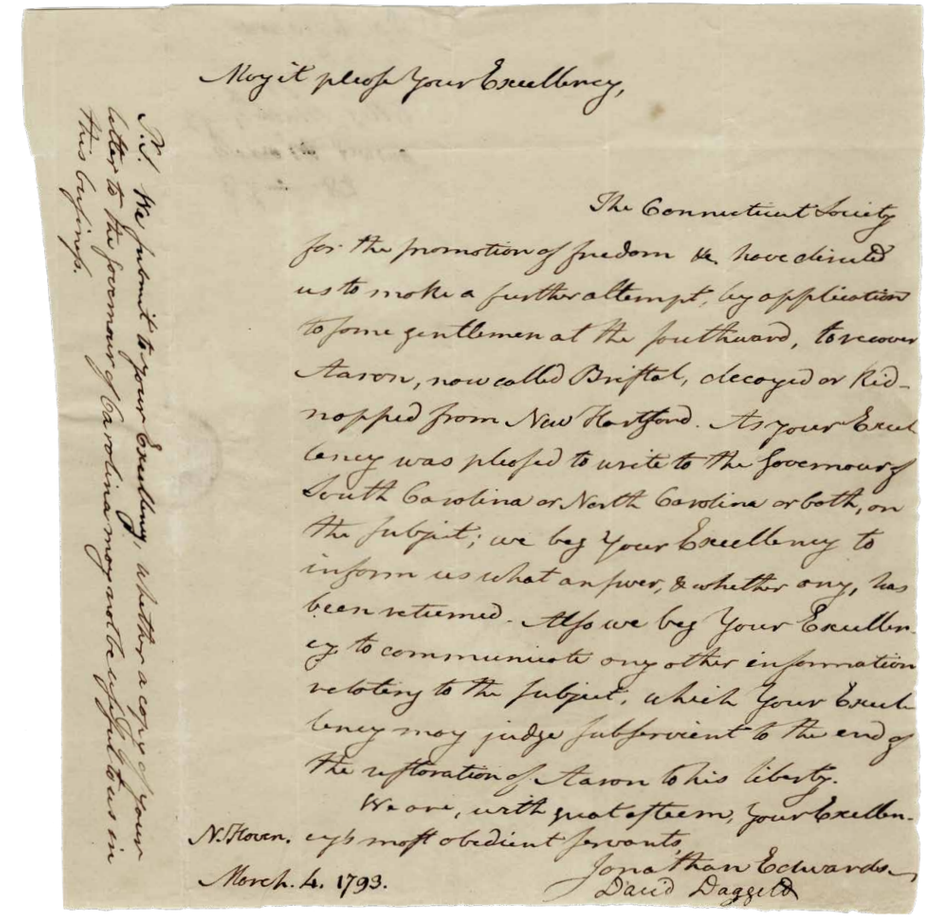
Poulson's American Daily Advertiser, on September 17, 1831, reported that "The citizens entertain a very strong hostility to the idea of a negro college being thrust into contact with our venerable Yale." The resolutions expressed this hostility, as well as decrying activism for the "immediate emancipation of slaves" and the "founding of Colleges for educating colored people" in general. *Poulson's* also noted that David Daggett addressed the meeting in favor of the anti-college resolutions. The committee of leaders that drafted the resolutions included Hitchcock.

A second New Haven meeting, in 1835, introduced resolutions calling for Connecticut abolitionists to be prevented from interfering with slavery in other states, particularly by distributing anti-slavery publications. In addition, the 1835 meeting advocated that free Black people be sent back to Africa. *The New-York American,* on September 15, 1835, printed the resolution with David Daggett's name as one of the signers.

"the young man and the old gentleman"

David Daggett had some humane actions on issues of slavery and race, early and late in his life. In *Disowning Slavery* (1998), Joanne Pope Melish describes a letter (shown right) that Jonathan Edwards the Younger and Daggett wrote to Governor Samuel Huntington on March 4, 1793. The letter inquired on behalf of a Connecticut resident who had been kidnapped for sale into slavery in the Carolinas. Daggett was a member at that time of the anti-slavery Connecticut Society for the Promotion of Freedom.

William C. Nell's *The Colored Patriots of the American Revolution* (1855) includes the following passage about Daggett: "While the black laws of Connecticut were in force, Chief Justice Daggett decided that we were not citizens of the United States, and that the colored people there had no claims to the privileges of American citizens. But time rolled on; he had become acquainted with the intelligent and enterprising colored



May it please your Excellency,

The Connecticut Society for the promotion of freedom &c. have directed us to make a further attempt, by application to some gentlemen at the southward, to recover Mason, now called Bristol, decoyed or Kidnapped from New Hartford. As your Excellency was pleased to write to the Governors of South Carolina or North Carolina or both, on the subject; we beg Your Excellency to inform us what answer, & whether any, has been returned. Also we beg Your Excellency to communicate any other information relating to the subject, which Your Excellency may judge subservient to the end of the restoration of Mason to his liberty.

We are, with great esteem, Your Excellency's most obedient servants,

Jonathan Edwards
David Daggett

New Haven, March. 4. 1793.

P.S. We submit to Your Excellency, whether a copy of your letter to the Governors of Carolina may not be useful to us in this Enquiry.

A letter from David Daggett and Jonathan Edwards, Jr. to Samuel Huntington. March 4, 1793. Connecticut Historical Society, MS 73093 Box A-H.

citizens of that State; he had finished his term and retired. But a few years ago, when the question was before the people of Connecticut—Shall the colored people of the State have the right to vote?—while his fellow-citizens were voting three to one in the negative, the old gentleman, from his retirement, stepped forth, in his white-topped boots, with his silver locks of eighty winters flowing beneath his venerable brim; leaning upon his staff, he walked to the polls, amid popular excitement, and voted in the affirmative."

Seth Perkins Staples (1776–1861).
Painted by Jared Bradley Flagg.

United States v. Cinque and the Africans

Yale Law School founder Seth Perkins Staples was an abolitionist whose public involvement with issues concerning slavery centered around the series of "*Amistad*" cases in 1839–41.

In 1839, the Spanish schooner *L'Amistad* (or, Friendship) was towed into the New London harbor by the United States Revenue Cutter Service. The case centered on the status of fifty-three captives—49 men and 4 children—on board the ship. Portuguese slave hunters had captured these men and children in the illegal slave trade in what is now Sierra Leone, on the west coast of Africa. From there, the Black men and children (or Mende, for their use of the Mende language) were transported to Havana, Cuba, by the Portuguese *Tecora.* Of the 733 enslaved people who embarked on the voyage, 188 survived. In Havana, fifty-three captives were bought by Spanish plantation owners, and chained and shackled for the journey to Puerto Principe.

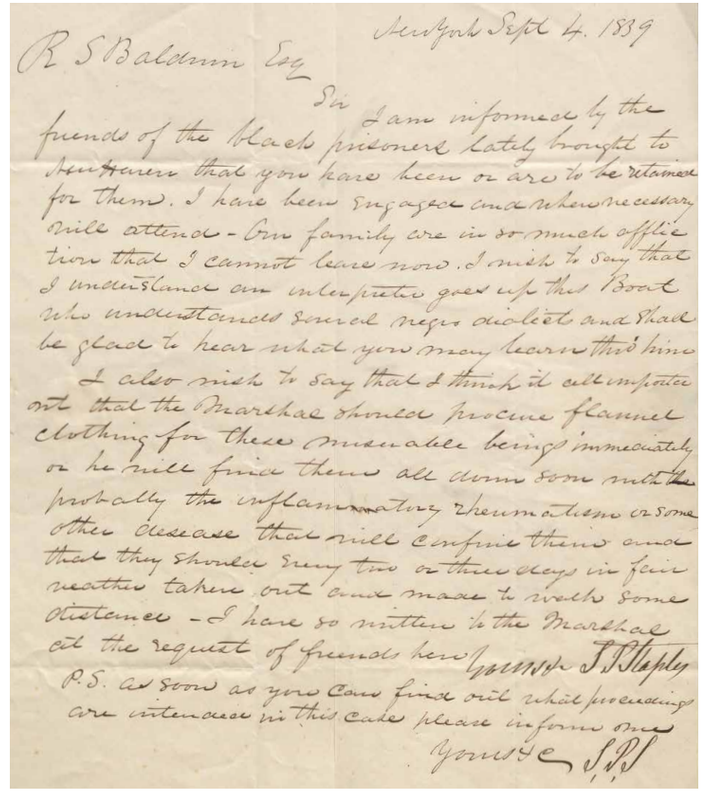
Sengbe Pieh, also known as Joseph Cinque, had been able to free himself and his fellow captives. Together, the Mende seized the ship, killing the captain and all but a few of the crew. Despite the Mende's order that the ship return to Africa, the remaining Spanish crew surreptitiously steered the ship north, where it was intercepted and seized by the United States schooner *Washington* off the coast of Montauk, Long Island, New York.

Seth Staples served as lead attorney for the defense team assembled by Lewis Tappan, a Boston abolitionist and leader of the Amistad Committee. Other lawyers for the captives included Roger Sherman Baldwin and Theodore Sedgwick. In September 1839, the Federal Circuit Court for the District of Connecticut dismissed criminal charges of murder and piracy against the captives on the grounds that court lacked jurisdiction over the alleged crimes. The question remained whether the Mende were to be considered property, and, if so, who owned them. In November, the Federal District Court for the District of Connecticut ruled in favor of the Mende captives. The United States, aiming to manage its relations with Spain, appealed to the Circuit Court,

which affirmed the District Court ruling. In the subsequent appeal to the U.S. Supreme Court, Associate Justice Joseph Story wrote an opinion reaffirming the District Court decision and freeing the captives.

"You have been or are to be retained for them"

> "Sir I am informed by the friends of the black prisoners lately brought to New Haven that you have been or are to be retained for them. I have been engaged and when necessary will attend." Seth Staples to Roger Sherman Baldwin, September 4, 1839.



New York Sept 4. 1839

R. S Baldwin Esq

Sir I am informed by the friends of the black prisoners lately brought to New Haven that you have been or are to be retained for them. I have been engaged and when necessary will attend - Our family are in so much affliction that I cannot leave now. I wish to say that I understand an interpreter goes up this Boat who understands several negro dialects and shall be glad to hear what you may learn that time

I also wish to say that I think it all important that the Marshal should procure flannel clothing for these miserable beings immediately or he will find them all down soon with probably the inflammatory rheumatism or some other disease that will confine them and that they should every two or three days in fair weather taken out and made to walk some distance - I have so written to the Marshal at the request of friends here

Yours &c S Staples

P.S. as soon as you can find out what proceedings are intended in this case please inform me

Yours &c S.S.

Letter from Seth Staples to Roger Sherman Baldwin. September 4, 1839. From the Baldwin Family Papers, Manuscripts and Archives, Yale University Library, MS 55, Box 21, Folder 241.

The *Amistad* case was a galvanizing force for the Boston and New England abolition movement. Seth Staples was retained as lead attorney by Lewis Tappan and the Amistad Committee, a circle of abolitionist activists centered in Boston. On September 4, 1839, Staples wrote a letter (shown left) to another attorney who had been retained for the defense, Roger Sherman Baldwin. Staples had known Baldwin since at least 1814, when Baldwin passed the bar and set up practice in New Haven. Both men were graduates of Yale College: Staples in 1797; Baldwin in 1811. Where Staples had established the New Haven law academy that was to be incorporated into Yale College, Baldwin had studied in the Litchfield office of Tapping Reeve.

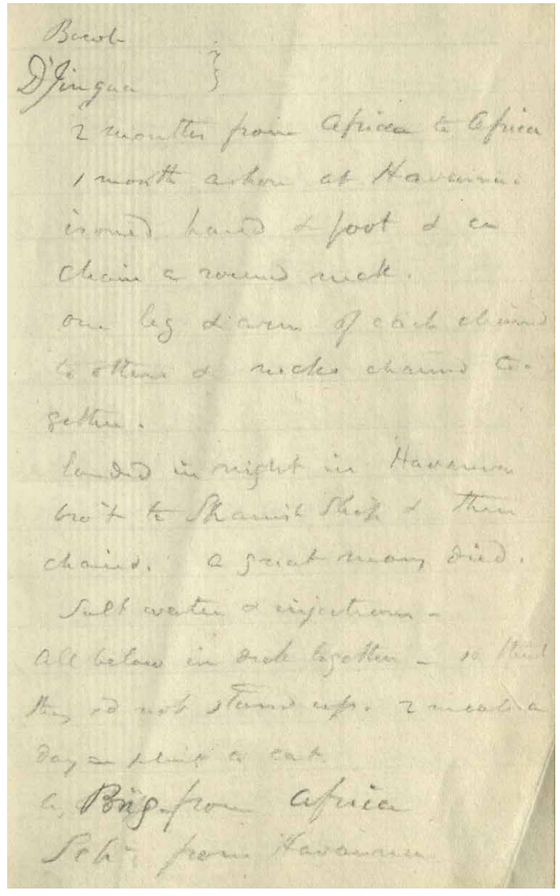
Staples was concerned from the outset with the care of the *Amistad* defendants in their arduous imprisonment during the Connecticut winter. He asked Baldwin to be sure that the marshal, in whose custody they were held, "should procure flannel clothing for these miserable beings immediately or he will find them all down soon with … inflammatory rheumatism," and also to be sure that "they should every two or three days in fair weather [be] taken out and made to walk some distance."

"Reduced to writing by me"

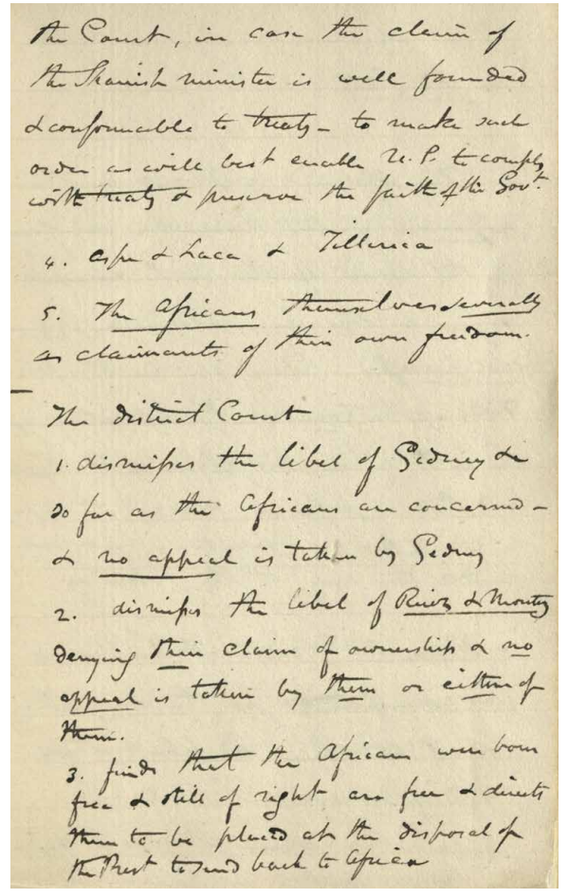
The *Amistad* case, like others, was also an exercise in the bureaucracy of the judicial process, as it functioned in the New Haven and Connecticut legal communities. It brought Staples and Baldwin into contact with others within these communities, including Samuel Hitchcock, Staples' former student and partner in the New Haven Law Academy.

> "The foregoing deposition was reduced to writing by me in the presence of James Covey the witness who was examined cautioned and sworn to testify the whole truth," wrote Hitchcock, "Judge of New Haven County Court," on October 4, 1839.

The deposition of James Covey as the translator for the *Amistad* defendants marks one of the powerfully reductive forces at work over the course of the case's three trials. The defendants spoke Mende, a



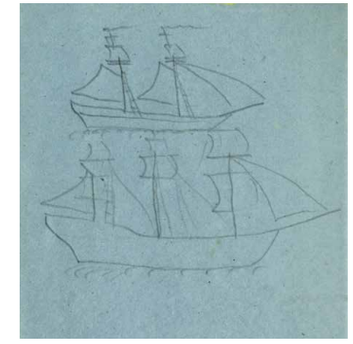
Book
D'Jinga
2 months from Africa to Africa
1 month when at Havana
ironed hand & foot & a
chain a round neck
one leg & arm of each chained
to others & necks chained to-
gether.
landed in night in Havanna
brot to Spanish Ship & then
chained. a great many died.
Salt water & rice twice -
All below in deck together - to sit
they do not stand up. 2 meals
day - rice & cat
a Brig from Africa
Sch from Havanna



The Court, in case the claim of
the Spanish minister is well founded
& conformable to treaty - to make such
order as will best enable U. S. to comply
with treaty & preserve the faith of the Govt.
4. Cepa & Laca & Tillerica
5. The Africans themselves severally
as claimants of their own freedom.

The District Court
1. dismisses the libel of Sidney &c
so far as the Africans are concerned -
& no appeal is taken by Sidney
2. dismisses the libel of Ruiz & Montes
denying their claim of ownership & no
appeal is taken by them or either of
them.
3. finds that the Africans were born
free & still of right are free & directs
them to be placed at the disposal of
the Prest to send back to Africa

Roger Sherman Baldwin's notebooks relating to the *Amistad* trial. New Haven,1840. Lillian Goldman Law Library, *TrialsB Am57Am flat, no. 11, parts 1 and 2.*



A drawing of the ship, *L'Amistad* by Roger Sherman Baldwin from his notebooks relating to the *Amistad* trial. New Haven,1840. Lillian Goldman Law Library, *TrialsB Am57Am flat, no. 11, part 1.*

language of the West African region from which they had been enslaved. They were unable to testify on their own behalf in the anglophonic American courts. James Covey, a Black crew member of the British *Buzzard,* fluent in Mende through the circumstances of his own history, agreed to act as translator for the defendants.

This deposition should not necessarily be read as evidence of Samuel Hitchcock's support for the *Amistad* defendants. Hitchcock's involvement seems to have been a matter of standard operating procedure for a judge in the New Haven County Court.

"Ironed hand & foot"

Two notebooks kept by Roger Sherman Baldwin document his notes for the defense and during the trial. In the first, Baldwin records the testimony of the *Amistad* defendants and their suffering during their forced journey from West Africa to Havana and, from there, to Connecticut:

> *2 months from Africa to Africa*
> *1 month when at Havana*
> *ironed hand & foot & a*
> *chain a round neck*
> *one leg & arm of each chained*
> *to others & necks chained to-*
> *gether.*

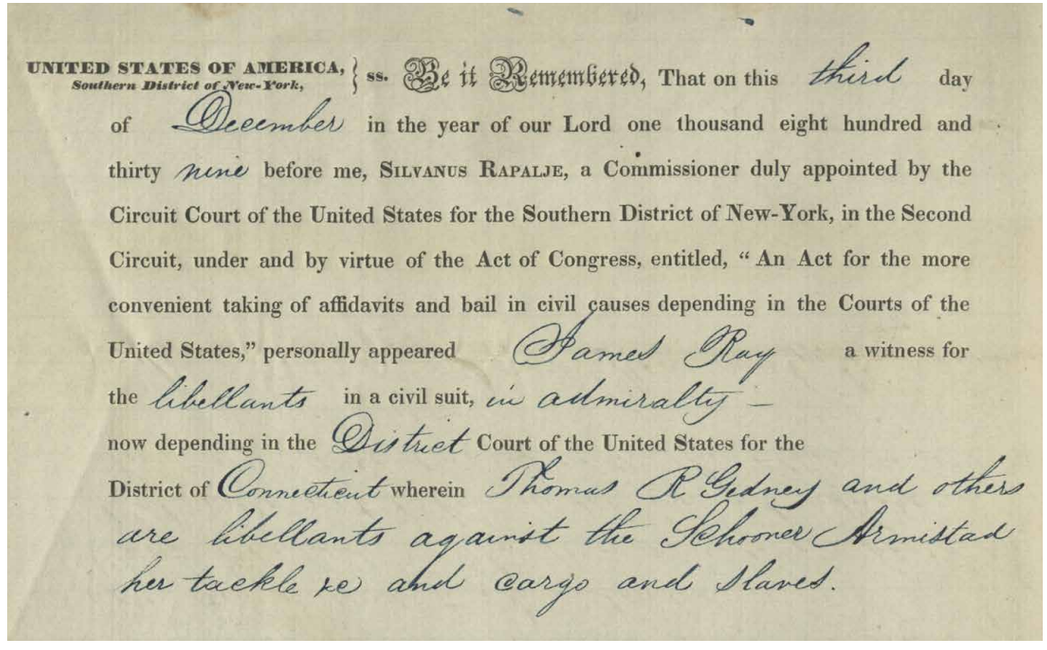
Baldwin notes the defendants' arrival in Havana at night, where they were brought to the Spanish ship and chained. "*A great many died,*" he writes.

In the second notebook, Baldwin can be found preparing his defense for the trial. In a detailed outline, he highlights the structure of the case. In the opening shown here, Baldwin makes one of the central arguments of the case: that freedom should be the court's default assumption in assessing the status of the *Amistad* defendants:

> *3. finds that the Africans were born free & still of right are free & directs them to be placed at the disposal of the Prest to send back to Africa.*

"libellants against the Schooner Amistad"

The documents of the *Amistad* trials informed and shaped the historical record of those events. The document below shows the deposition of James Ray, a mariner on the *Washington,* the ship which took the *Amistad.* Ray's testimony, as a witness for the prosecution, is normalized by the procedures of judicial administration. A clerk has supplied both the date and Ray's answers in this printed form. His meticulous hand fills in the details, rendering the categories by which Ray and the *Amistad* captives were made legible as participants in the judicial process. Like them, James Ray is made to fit the parameters of the printed form.



UNITED STATES OF AMERICA, Southern District of New-York, } ss. Be it Remembered, That on this third day of December in the year of our Lord one thousand eight hundred and thirty nine before me, SILVANUS RAPALJE, a Commissioner duly appointed by the Circuit Court of the United States for the Southern District of New-York, in the Second Circuit, under and by virtue of the Act of Congress, entitled, "An Act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States," personally appeared James Ray a witness for the libellants in a civil suit, in admiralty — now depending in the District Court of the United States for the District of Connecticut wherein Thomas R Gedney and others are libellants against the Schooner Amistad her tackle &c and cargo and slaves.

Detail of manuscript of the deposition of James Ray in the case of *United States v. The Amistad.* New York: Circuit Court of the United States for the Southern District of New York. December 3, 1839. Two printed forms completed in manuscript. Lillian Goldman Law Library, *TrialsB Am57Am flat, no. 12.*

"Congressional Documents & Habeas corpus proceedings"

In January 1840, Judge Andrew Judson ruled that the *Amistad* defendants could not be returned to the Spanish plantation owners because Spain had made slavery illegal in 1820. As he argued: "If, by their own laws, they cannot enslave them, then it follows, of necessity, they cannot be demanded."[3] The case was appealed to the United States Supreme Court, where it was argued by Roger Sherman Baldwin and John Quincy Adams from January–March 1841.

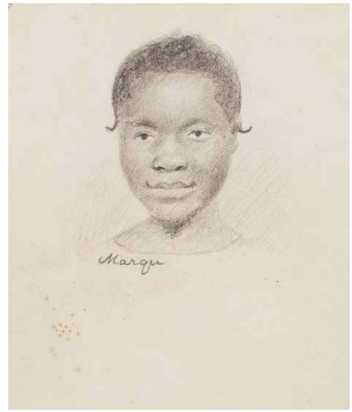
Baldwin was sent materials relating to the case by Lewis Tappan and other abolitionists. One of these surviving notebooks is bound with the coarse brown or blue waste paper that was known from the eighteenth century as "sugar paper" for its use as the wrapper for cones of sugar in the West Indies trade back to Britain and Europe. Even the materials documenting the trials were themselves situated within the context of the Atlantic slave trade and its economy of sugar, rum, and imperial commodities.

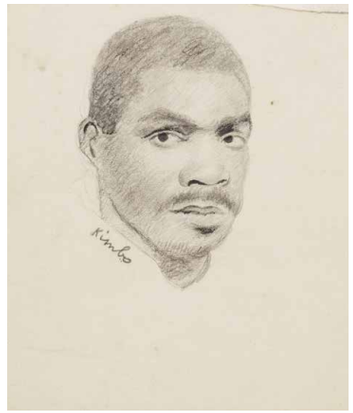
"Drawn from life"

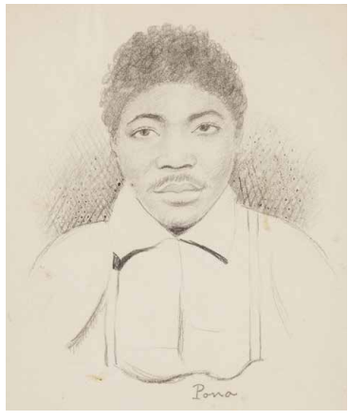
William Townsend, a New Haven resident, sketched a series of portraits (shown p. 30) of the *Amistad* captives, "drawn from life," before their trial. Six prisoners are shown on the following page, sometimes identified by name by the artist.

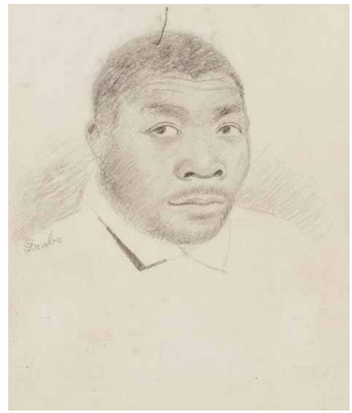
The *Amistad* cases, both in Connecticut and Washington, D.C., generated an enormous amount of publicity. Reports of the trials circulated in both popular and legal publications. Images of the defendants were published widely and were the basis of a touring set of wax figures of the captives, one indication of the intense, consuming popular interest in the *Amistad* defendants and the circumstances of the trial.

3 Gedney et al. v. L'Amistad, 10 Fed. Cases 146–48. Cited from Bruce A. Ragsdale, "The *Amistad* Captives and the Federal Courts," *Prologue Magazine / National Archives* 35, 1 (Spring 2003); www.archives.gov/publications/prologue/2003/spring/amistad.









Six of the sketches of the *Amistad* captives by William H. Townsend. Top row: Kezzuza, Suma, and Marqu; bottom row: Kimbo, Pona, Grabo. New Haven, 1839–1840. General Collection, Beinecke Rare Book and Manuscript Library, Yale University.

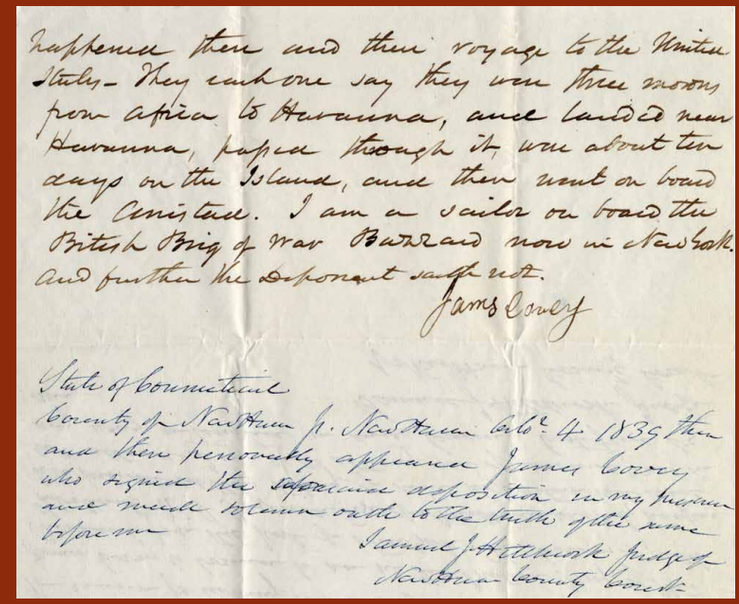
"The Yale Men"

One by one the Yale men come
to teach their tongue to these
caged Africans so they might tell

in court what happened on the ship
and then, like Phillis Wheatley,
find the Yale men's God

and take Him for their own.

From "*Amistad*" by Elizabeth Alexander in *American Sublime* (St. Paul, Minn.: Graywolf Press, 2005).

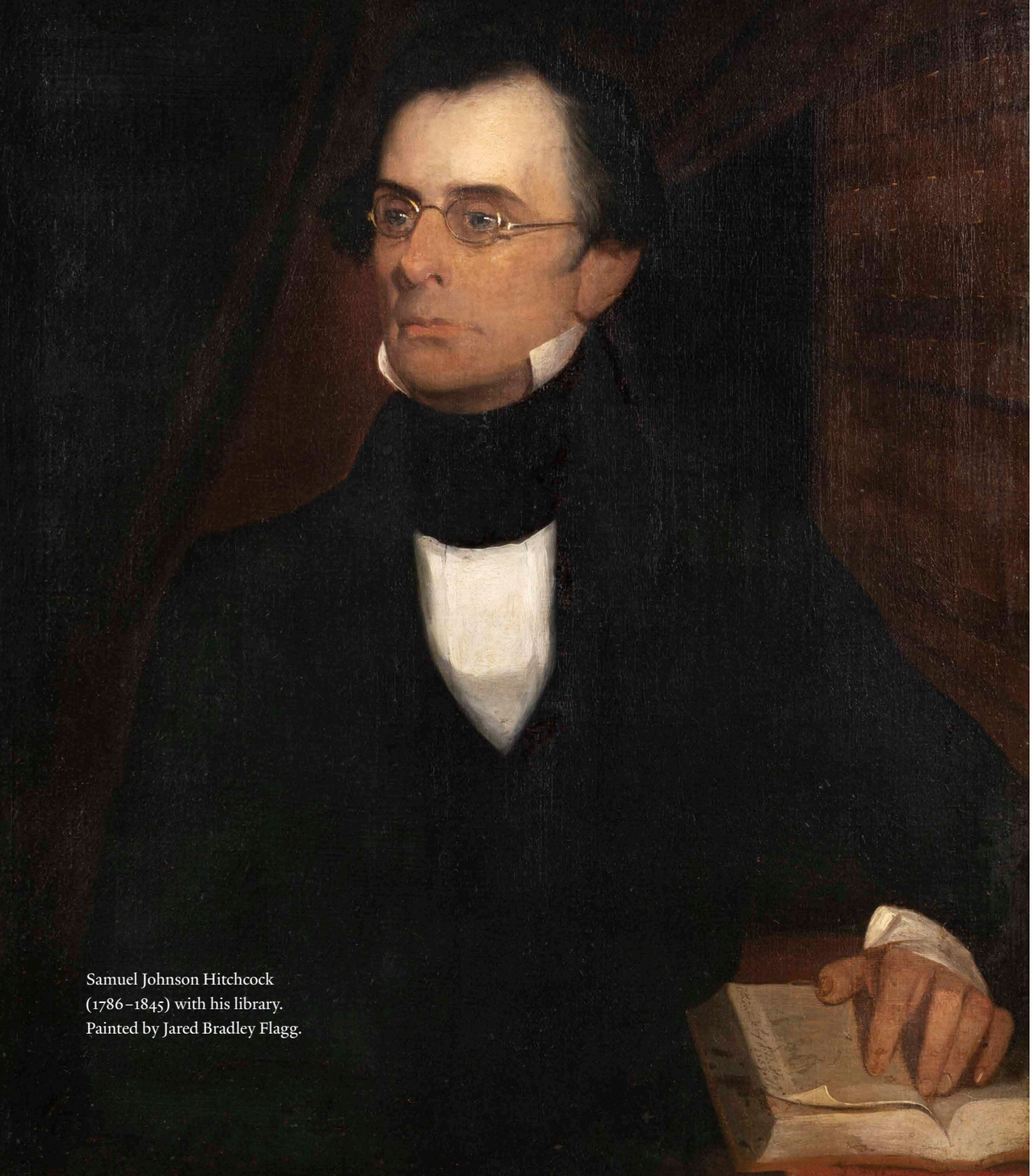

happened there and their voyage to the United States. They each one say they were three months from Africa to Havanna, and landed near Havanna, papers through it, were about ten days on the Island, and then went on board the Amistad. I am a sailor on board the British Brig of War Buzzard now in New York. And further the Deponent saith not.

James Covey

State of Connecticut
County of New Haven ss. New Haven Sept. 4 1839 then and there personally appeared James Covey who signed the foregoing deposition as my free act and made solemn oath to the truth of the same before me

Samuel J. Hitchcock Justice
New Haven County Court

Detail, manuscript deposition of James Covey by Samuel Hitchcock. New Haven, [October 4], 1839. From the Baldwin Family Papers, Manuscripts and Archives, Yale University Library, MS 55, Box 21, Folder 241.



Samuel Johnson Hitchcock (1786–1845) with his library. Painted by Jared Bradley Flagg.

The Founders' Collection of the Yale Law Library

> "Students are furnished with the use of the *elementary books,* and have access, at all time to the college libraries, and to *a law library,* comprising very important works both ancient and modern."[4]

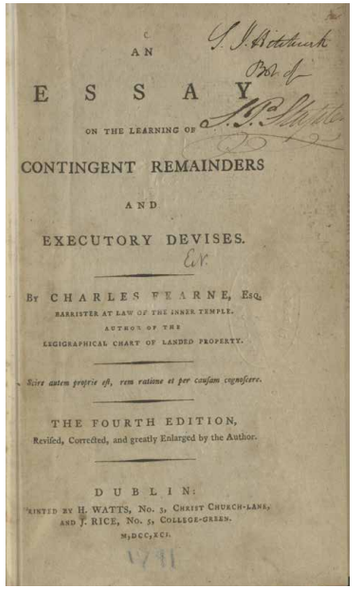
This advertisement in 1826 articulated the importance of the library to the New Haven law school overseen, at that point, by Samuel Hitchcock and David Daggett, Seth Staples having moved to New York City in 1824.

The private libraries assembled by these three men were critical to the education of law students. Seth Staples acquired a law library from England in 1800; each of the three men also continued to acquire books over the course of their careers. Their collections included quotidian works on legal practice and forms for the working use of law students and also the extensive collections of British, European, and emergent American law works, often imported from overseas. As the title pages of books in the Founders' Collection attest, they also bought, sold, and exchanged books with each other, signing title pages and marking pages.

It can be argued that the library became the cornerstone of Yale Law School. After the death of Samuel Hitchcock in 1846, the Yale College Corporation acquired his library. This purchase, on August 11, 1846, was made "that the same may be the foundation of a Law School in Yale College." On that same day, the Corporation recognized the law school as a department of Yale College. In 1935, the Law School also drew together the books in its library collection that had been owned by Staples, Daggett, and Hitchcock. This was the basis of what is now known as the Founders' Collection.

Since 1935, the three founders of Yale Law School have been closely associated with the Founders' Collection of surviving law books that bears their collective name. What do the books and papers owned by

4 Frederick C. Hicks, "Yale Law School: The Founders and the Founders' Collection," *Yale Law Library Publications* 1 (June 1935): 26.



AN

ESSAY

ON THE LEARNING OF

CONTINGENT REMAINDERS

AND

EXECUTORY DEVISES.

By CHARLES FEARNE, Esq.
BARRISTER AT LAW OF THE INNER TEMPLE.
AUTHOR OF THE
LEGIGRAPHICAL CHART OF LANDED PROPERTY.

Scire autem proprie est, rem ratione et per causam cognoscere.

THE FOURTH EDITION,
Revised, Corrected, and greatly Enlarged by the Author.

DUBLIN:
PRINTED BY H. WATTS, No. 5, CHRIST CHURCH-LANE,
AND J. RICE, No. 5, COLLEGE-GREEN.
M,DCC,XCI.

Charles Fearne, *An essay on the learning of contingent remainders and executory devises* (Dublin: H. Watts and J. Rice, 1791). Lillian Goldman Law Library, *Founders Collection, Staples 3.*

David Daggett's notes on gradual emancipation, in lecture notes on "Master & Servant." n.d. Manuscripts and Archives, Yale University, MS 162, Box 13, Folder 3A.

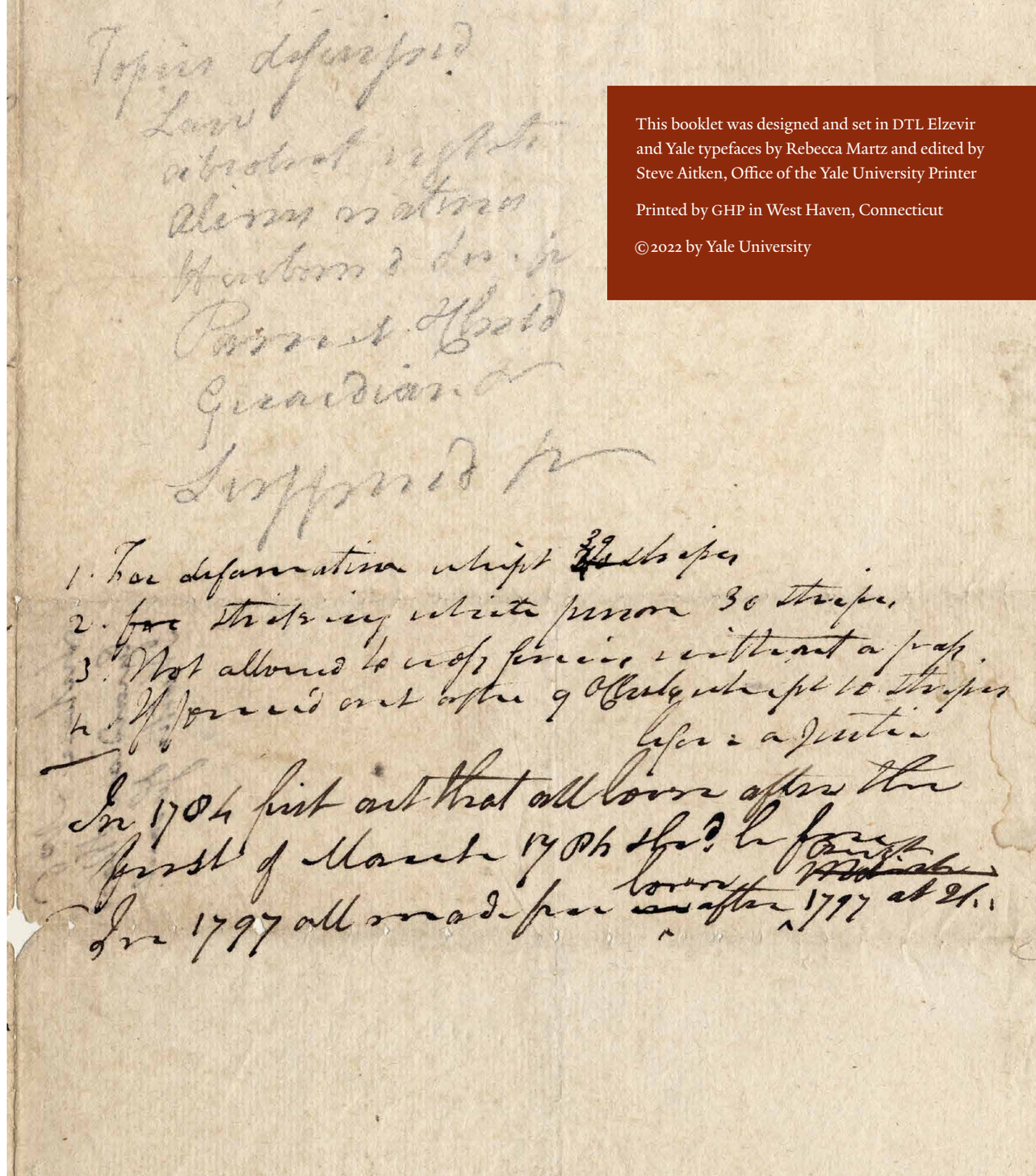
Daggett, Staples, and Hitchcock reveal about the ways in which issues of race and slavery were taught to the early students of the New Haven law academy that became Yale Law School?

"Bot of Seth Staples"

One answer to the question above can be found written on a title page. "S. J. Hitchcock Bot of S. P. Staples" reads the inscription by Samuel Hitchcock, marking his name and purchase of the book above Staples' inscription. Staples, Hitchcock, and Daggett were bound within the same world: their books, their law practice, even their graves in Grove Street Cemetery attest to their shared inhabitation of the small world of law practice and study in late eighteenth- and early nineteenth-century New England. Their views on race and slavery might differ to some degree, but not to an extent that would affect their willingness to work together within the administrative practice of law in New Haven and its broader contexts, nor their shared interest in teaching students in the private law academy or the later nascent law school.

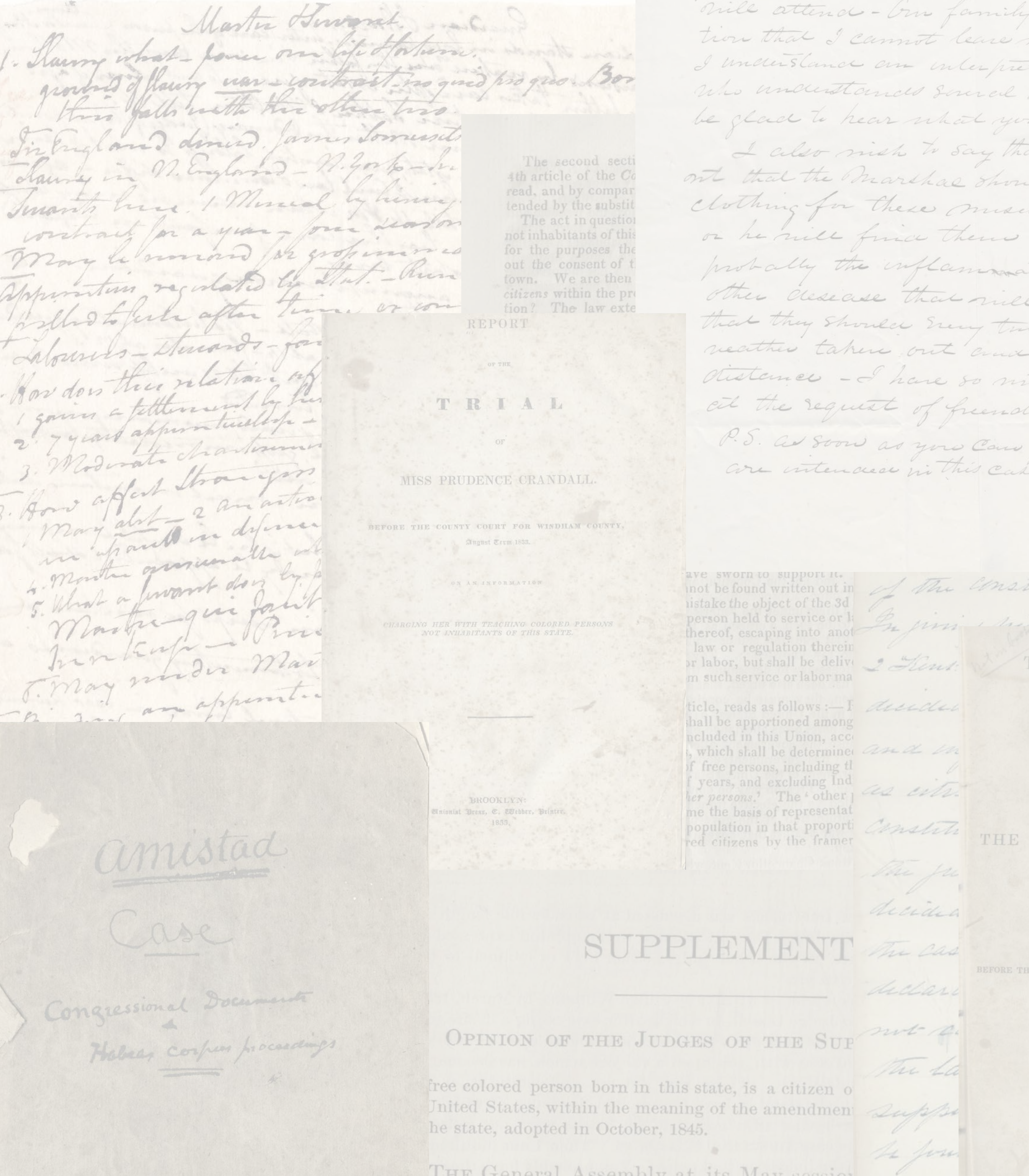
How was race or slavery taught to the New Haven and early Yale law students? Daggett's own lecture notes offer one answer, found in his outline for a discussion of Blackstone's relationships "Guardian & Ward, Master & servant." Beneath a list of sentences, including the number of "stripes" or flogging strokes for "striking [a] white person," Daggett added his summary of gradual emancipation.

Daggett himself became part of the law curriculum. Diligently copied by a student in 1844–45, Samuel Hitchcock's lecture notes revisit Daggett's judgment in the case of Prudence Crandall. "Must we … say they are not citizens," Hitchcock asked his students in his lecture, following on with the response: "It has been so decided by a distinguished judge in Conn."



This booklet was designed and set in DTL Elzevir and Yale typefaces by Rebecca Martz and edited by Steve Aitken, Office of the Yale University Printer

Printed by GHP in West Haven, Connecticut


Master & Servant.
REPORT
OF THE
TRIAL
OF
MISS PRUDENCE CRANDALL.
BEFORE THE COUNTY COURT FOR WINDHAM COUNTY,
August Term 1833.
ON AN INFORMATION
CHARGING HER WITH TEACHING COLORED PERSONS
NOT INHABITANTS OF THIS STATE.
BROOKLYN:
1833.
amistad
Case
Congressional Documents
Habeas corpus proceedings
SUPPLEMENT
free colored person born in this state, is a citizen o
United States, within the meaning of the amendmen
he state, adopted in October, 1845.