

**FOREWORD:**

**Title:** Warts and All. How *The Plattsburgh* Should Change the Way We Look at the Face of Baltimore Maritime History.

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**Abstract**

In 1820 the *Plattsburgh* was condemned for violating federal anti-slave trade legislation. This little known, rarely cited Supreme Court decision is important, because it pierces the veneer of romanticism that has been allowed to sugar over our recollection of Baltimore's maritime history. The case indicates that some of the most prominent ship owners and captains at the time, including Thomas Sheppard, John N. D'Arcy, Henry Didier, and Thomas Boyle, have links to the slave trade. This paper explores the cruel realities of the international slave trade, the ineffective federal laws aimed at prohibiting it, and the efforts by merchants to circumvent federal law in order to make money on the suffering of the innocent.

**Disciplines:** Law & Maritime History

## Prologue

Lieutenant Silas Horton Stringham steadied himself, as his boat was rocked by the waves. Wiping the sweat from his brow, Stringham stared across the water at his adversary. She was a schooner, a wooden sailing ship with two masts raked back towards her square stern and sails that were rigged fore and aft. Although she was a modest vessel, a little over one hundred feet long overall with only one deck and no figure head, she was undoubtedly fast.<sup>1</sup> A cargo vessel that traded bulk space for speed.<sup>2</sup> Not only was she fast, but the eighteen and twelve pound guns on her deck showed that she had teeth.<sup>3</sup> There could be only one reason why this fast and armed vessel was off the coast of Africa. She was in the slave trade.<sup>4</sup> The exact trade that Stringham was charged to stop.

Stringham was a naval officer serving on board the *USS Cyane* under the command of Captain Edward Trenchard. Formerly of Her Majesty's Navy, the *Cyane* was captured by the *USS Constitution* during the War of 1812, and she was pressed into American service in 1815.<sup>5</sup> By 1820, the *Cyane* was patrolling the coast of Africa in order to prevent violations of American anti-slave trade legislation.<sup>6</sup>

The *Cyane* was also assisting the efforts of groups of recently freed African American slaves. These freedman were attempting to create a colony on the western coast of Africa which would eventually become the nation of Liberia.<sup>7</sup> The *Cyane* had previously interdicted six vessels, but had only found probable cause to hold two of them, the *Esperanza* and the *Endmion*. Although the United States had banned the international slave trade, this prohibition was not universally recognized. Both of these vessels that the *Cyane* held were American schooners purporting, through various forms of subterfuge, to be Spanish ships legally engaged in the slave trade.<sup>8</sup>



**The *Pride of Baltimore II* a vessel of similar characteristics to the *Plattsburgh*<sup>9</sup>**

Thus when this new schooner crossed the *Cyane's* path Captain Trenchard had reason to believe that this was yet another American schooner fraudulently claiming another flag of convenience. Trenchard sent Stringham in a boat to interdict the schooner and bring it back to the *Cyane* for inspection. As Stringham approached his quarry the schooner fired a twelve pound gun, in order to discourage his efforts. In response Stringham bellowed, “If you fire that gun again I'll come on board and put every man to death.” His quarry sufficiently cowed, Stringham and his party came on board and directed the schooner to sail to the *Cyane*.<sup>10</sup>

## **Introduction**

The vessel's true name was the *Plattsburgh*,\* but she was registered under the pseudonym *Maria Gertrudes* at the time.<sup>11</sup> Like the previous ships the *Cyane* had interdicted, the vessel was an American ship, but her operators were fraudulently claiming she was a Spanish one. Just as with the other vessels, she was designed to run blockades and capture merchant ships as prizes. However, she was equally at home in the lucrative task of human trafficking.<sup>12</sup> The *Plattsburgh*

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\* As will be discussed more fully later, the types of case that are discussed in this article often have an identical caption to the vessels at risk in the litigation. For the sake of clarity this article follows the convention of italicizing “the” in case names but not in vessel names. In other words the vessel that is named the *Plattsburgh* is at risk in the case captioned *The Plattsburgh*.

was eventually sailed to the port of New York and condemned in an unreported case in U.S. District Court for the Southern District of New York.<sup>13</sup> Although the case would eventually make its way to the Supreme Court of the United States, the short opinion is rarely cited.<sup>14</sup>

However, this little known and rarely cited case is still important, because it provides insight into the darker side of the Baltimore's past. Piercing through the well polished veneer of respectability of Baltimore merchants, one steps into a world of greed, corruption, and evil. A world in which the wealth and success of the rich few is bought and paid by suffering and degradation of the innocent. A world in which government officials are more than happy to turn a blind eye to businessman who flagrantly violate federal laws. A world in which money is the ultimate goal and kidnapping, torture, and murder were simply the cost of doing business.

At the time the *Plattsburgh* set sail, it was well established that the international slave trade was a violation of federal law.<sup>15</sup> Nevertheless this evil, yet highly lucrative, practice continued, and indeed it was common place.<sup>16</sup> The events surrounding the case of *The Plattsburgh*,<sup>17</sup> were the result of a conspiracy, hatched by a merchant named Thomas Sheppard, to engage in the international slave trade in violation of federal law.

The plan was simple. Although it was illegal for American ships to traffic slaves from Africa to the New World, it was still legal for Spanish ships to traffic slaves from Africa to the New World. In order to circumvent federal law, the American conspirators partnered with a Spanish subject. The Spanish subject would buy the American built and American crewed ship, which would traffic slaves from Africa to Spanish colonies in the New World.

In this particular case the *Plattsburgh* legally sailed to Cuba, where she was sold to a Spanish subject Juan Marino. She was subsequently interdicted off the coast of Africa by an American naval vessel. The key issue in this case was whether the *Plattsburgh* was still an

American ship even though she had Spanish papers. The Supreme Court ultimately ruled that the ship was American, and thus the *Plattsburgh* was subject to forfeiture under American law.<sup>18</sup>

It is difficult to determine who Sheppard's co-conspirators are. However, some likely suspects include John N. D'Arcy, Henry Didier, and Thomas Boyle. These individuals were fellow ship merchants and ship captains who have ties to Sheppard and the *Plattsburgh*. Examining the events surrounding this particular case provides a deeper understanding of a historical period that naturally lends itself to being sugared over with romantic notions of a swashbuckling lifestyle. However, a closer inspection reveals that the men in the privateering industry were first and foremost concerned with profits. They were just as happy making money trafficking slaves as they were making money running English blockades.

### **Laws Prohibiting the International Slave Trade.**

When the Constitution was adopted, slavery was common. Approximately one fifth of the population of the United States were slaves. However, the vast majority of slaves resided in the southern states.<sup>19</sup> Although several state constitutions, such as Massachusetts and Vermont, banned slavery,<sup>20</sup> other states, such as Pennsylvania, were adopting a more gradual approach to emancipation. Individuals who were already enslaved remained so, but there would be no new slaves.<sup>21</sup> Interestingly enough although the several states could not agree on whether or not slavery should be abolished, there was a wide spread consensus that the international slave trade should be abolished. Prior to the writing of the Constitution 10 out of 13 states banned importing slaves from other countries.<sup>22</sup>

Although the Constitution did not make slavery illegal, it did permit the federal government to regulate it.<sup>23</sup> Consequently, after the ratification of the Constitution the new federal government legislated a series of acts designed to abolish the international slave trade.

The first such act was the Slave Trade Act of 1794, declaring that “no citizen ... or any other person whatsoever, either as master, factor or owner, [may] build, fit, equip, load or otherwise prepare any ship ... within ... [the] United States ... for the purpose of ... trad[ing] ... in slaves[.]”<sup>24</sup> Violations of this statute would lead to the vessel being condemned.<sup>25</sup> In 1800 Congress passed additional legislation specifically prohibiting the residents of the United States from voluntarily serving on board slave ships and subjected violators to a \$2,000.00 fine as a penalty;<sup>26</sup> over \$26,000.00 in today's currency.<sup>27</sup>

In 1803, Congress created fines for bringing any “negro, mulatto, or other person of color” from Africa or the Caribbean into states that had banned the importation of slaves.<sup>28</sup> This clarification was designed to prevent individuals from claiming that they were engaged in the international indentured servant trade as a way to get around the anti-slave trade legislation.<sup>29</sup> In 1807, Congress finally passed legislation that completely banned importing slaves.<sup>30</sup>

However, the law did not go into effect until 1808, because the Constitution prohibited the federal government from regulating the “migration or importation of such persons as any the States shall think proper to admit” until 1808.<sup>31</sup> The statutes passed in 1794 and 1803 were able to go into effect immediately, because instead of directly regulating the migration or importation of people the 1794 and 1803 statutes regulated what ships could be built and who could work on them.

Finally it should be noted that although the international slave trade was banned, there were no laws prohibiting the domestic slave trade. This included the coastal slave trade. It was perfectly legal and quite common for ships to transport slaves from Baltimore to southern ports; such as New Orleans.<sup>32</sup>

## Enforcing the Law

If an American ship was caught preparing for or engaging in the slave trade, the vessel was subject to forfeiture.<sup>33</sup> Forfeiture proceedings were originally developed to deal with prize cases; cases where privateers claimed the right to sell enemy ships that they had captured. Although typically rebuked as state sponsored piracy, prize cases were actually quite sophisticated. Article 1 of the Constitution permits Congress to grant letters of marque to American privateers.<sup>34</sup> Only properly licensed privateers, with letters of marque, could recover in a prize case. Letters of marque would only be issued during armed conflicts for the duration of the conflict.<sup>35</sup>

Privateers could only seize enemy ships. Privateers were forbidden from using excessive force to capture the ship, and privateers were also forbidden from pilfering the cargo; also known as breaking bulk.<sup>36</sup> A violation of these prohibitions could result in the loss of a privateer's rights to the prize. Once privateers seized a vessel they had to sail the ship to an American port and condemn the ship in a U.S. District Court where the privateers would have to prove that they had legally captured an enemy ship and hadn't pilfered the cargo.<sup>37</sup> The cases would be litigated under *in rem* jurisdiction; jurisdiction of the thing rather than jurisdiction of a person.<sup>38</sup> Consequently the cases would often be captioned by the name of there ship; *i.e.* *The Plattsburgh*.<sup>39</sup>

The procedures for condemning slave ships where similar to the procedures for condemning prize ships. The Naval or Revenue Marine crews who captured the ship would have to prove in U.S. District court the vessel was American and that it was either engaging in the international slave trade or making preparations to engage in the international slave trade. If the crew prevailed then they would have to have a right to a share of the profits.<sup>40</sup>

Of course privateers would by necessity have set sail to catch their quarry to bring them back to the United States. Astonishingly the violations of the Slave Trade Acts were so flagrant that occasionally government officials would not even have to leave the pier in order to interdict American slave ships. Some vessels, such as the *Caroline*, and the *Emily*,<sup>41</sup> were actually condemned before they even left American harbors.

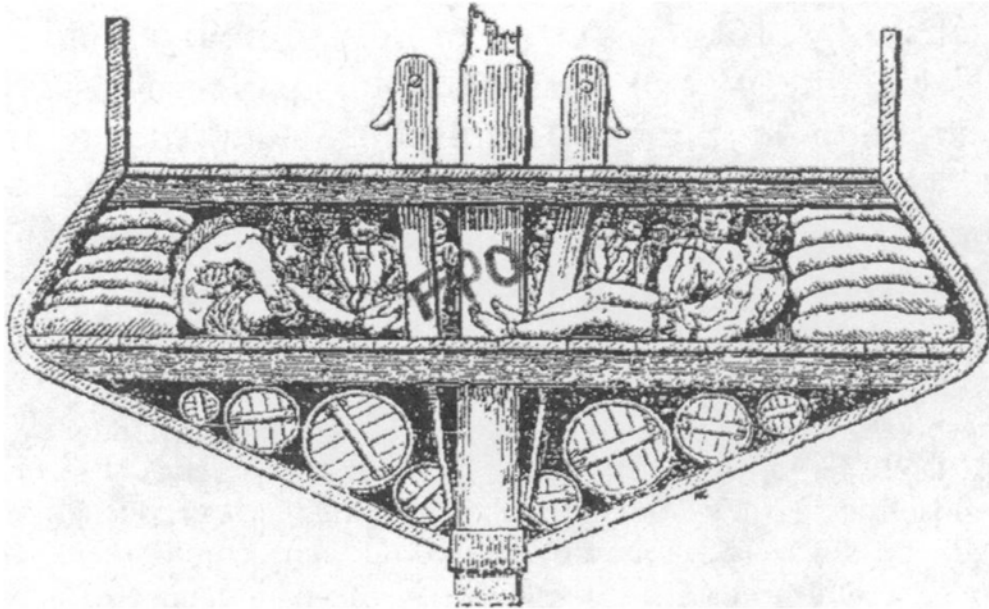
One particularly delicate question that had to be answered about the proceedings was, “What should happen to the Africans who had been on board the interdicted slave ship?” Slavery itself was still legal in many states.<sup>42</sup> In addition to the ship, the ship’s “tackle, furniture, apparel, and other appurtenances”<sup>43</sup> were also subject to forfeiture. Consequently, a morally troubling, yet plausible, legal argument could be made that the human cargo should also be sold for the profit of the United States and the crew that interdicted the slave ship.<sup>44</sup>

By 1819 however, the legal issue became moot, because Congress passed legislation ordering that Africans, who were on board interdicted slave ships, be repatriated back to Africa.<sup>45</sup> In spite of this, Africans often faced long waits before being repatriated. On at least one occasion Africans were forced to work as slaves while waiting to be repatriated back to Africa.<sup>46</sup>

In support of repatriation efforts, American warships patrolled the African coast to insure that repatriated Africans were not recaptured. This American presence eventually came to be known as the African Squadron. Compared to the much larger and experienced British naval presence, African Squadron was largely insignificant. Nevertheless, African Squadron represented a historic effort by the fledgling American government to project its powers onto a global stage.<sup>47</sup>



## The Cruel Realities of the Slave Trade



**Cross Section of a Baltimore Clipper Slave Ship<sup>48</sup>**

The Baltimore clipper is a smart vessel that is often thought of as a symbol of ingenuity and the fighting spirit of the early American experience.<sup>49</sup> However, a more complete look at the history of this vessel reveals that it was also employed for more darker and nefarious purposes. The Baltimore clipper and her predecessors were small fast schooners that were used to transport cargo. At a time when colonial cities were small and did not have a large demand for bulk goods, a cargo ship that could transport a small amount of cargo to these remote locations quickly found a vital niche.<sup>50</sup> During the War of 1812 these ships became the choice vessels of blockade runners and privateers.<sup>51</sup>

Eventually all wars must come to an end, but the perpetual need to make profits endures far longer than any war. Ship owners and captains found new ways to exploit the use of this nimble craft. One particular method was to simply privateer for another nation against a sovereign that the United States was not at war with. It should be noted that this was a strict violation of the Neutrality Acts. Even so, ship owners and captains developed black market

networks for supplying this mercenary service to nations that were willing to pay for it.<sup>52</sup>

A second source of revenue was for American vessels to engage in the international slave trade. Using the same or similar black market networks, ship owners and captains negotiated with foreign merchants to transfer color of title in order to allow American crews on American ships to purport to be Spanish crews on Spanish ships. While the international slave trade was illegal in the United States and Great Britain, it was legal for ships registered in Spain at the time. These same traits of speed and maneuverability that made Baltimore clippers such good blockade runners (i.e. the ability to get in and out of an area quickly and undetected) also lent themselves to the terrible evil of the trans-Atlantic slave trade.<sup>53</sup>

Although illegal in the United States, the cruel practice of the trans-Atlantic slave trade continued to thrive. The reason this black market persisted, despite the extensive federal legislation that was levied against it, was that the institution was unbelievably lucrative. For example, a Baltimore clipper that was approximately 90 feet long and 27 feet abeam could transport on average 507 African slaves at an approximate total profit of \$67,000.00 per voyage in 1820s currency.<sup>54</sup> That is over 1 million dollars in 2012 currency.<sup>55</sup> The *Plattsburgh* was over one hundred feet long.<sup>56</sup> Consequently her owners could have expected to make similar, if not larger, profits from the voyage.

The pure avarice that would have been spawned by the potentially mountains of money that could be obtained from the international slave trade, might very well have been exacerbated by a financial crisis of 1819. The Panic of 1819 was the nation's first major depression. Caused, in part, by the fraudulent practices of the Second Bank of the United States, the depression was a serious threat to the wealthy merchant elite of Baltimore. Many wealthy merchants were nearly wiped out; being forced to sell their homes and liquidate their merchant houses. The need for

ship owners to find another way to make a living after the War of 1812 was over, and the pressure of the Panic of 1819, were a perfect mixture of greed and fear that motivated the merchants of Baltimore to engage in this highly lucrative clandestine activity.<sup>57</sup>

However, this vast amount of wealth was built on a mountain of human suffering. Setting aside for the moment the evils of slavery itself, particular attention needs to be paid to the crime of trafficking people from Africa to the New World. To say that the conditions on board these ships were horrific is a gross understatement. It would be fair to describe the passage to the New World in the bowels of a Baltimore clipper as Hell on Earth. As one missionary who witnessed the sight reported “human beings ... wedged together ... in low cells three feet high ... [t]he heat of these horrid places was so great, and the [odor] so offensive, that it was quite impossible to enter them.”<sup>58</sup>

Under these conditions it was quite common for many Africans to die during the passage. However, not only were slave ship owners and captains aware of the problem, they built this intolerable cruelty into their business model in order to ensure that the voyage would be profitable. Understanding that as more and more people were crammed into the hull the likelihood that individuals would die increased, Captains developed a probabilistic methodology whereby they would try to squeeze just enough people into the holds to maximize the total amount of Africans who would survive the journey.<sup>59</sup>

It was under these conditions that Thomas Sheppard participated in a conspiracy to violate federal law by trafficking slaves from Africa to the New World; presumably the plantations of Cuba. It is not entirely clear who his co-conspirators were or how they had intended to share the profits. What is clear is that Sheppard hired Captain Joseph Smith and George Stark to complete the task using Spanish papers as a shield from liability.

## ***The Plattsburgh, Case Brief***

In 1817 Thomas Sheppard, John N. D'Arcy, Henry Didier bought the *Plattsburgh*.<sup>60</sup> Sheppard was a flour merchant and ship owner.<sup>61</sup> D'Arcy and Didier were partners in a shipping firm.<sup>62</sup> William Patton was the master of the vessel at the time of the sale.<sup>63</sup> However, by 1819 the *Plattsburgh* was under the command of Captain Joseph F. Smith.<sup>64</sup>

It was a matter of some contention who owned the *Plattsburgh* by 1819. Although the *Plattsburgh* was still registered to Sheppard, D'Arcy, and Didier, Sheppard contends that D'Arcy and Didier sold their portion to Sheppard. Sheppard further contends that he authorized a man named George Stark to sail the *Plattsburgh* to Cuba for the sole purpose of selling it.<sup>65</sup> However, testimony from the crew members seems to indicate that Stark was merely the supercargo; the individual responsible for all the cargo on a ship.<sup>66</sup>

Stark was not on board the *Plattsburgh* when she left Baltimore, because Stark was on another ship known as the *Eros*.<sup>67</sup> The *Eros* was a brig; a two-masted square rigger. It was owned by Thomas Boyle; a famous shipowner and captain.<sup>68</sup> The *Eros* rendezvoused with the *Plattsburgh* in the Chesapeake Bay. Stark came on board with a few barrels of cargo. Crew members report that irons and manacles were hidden inside the barrels that Stark brought on board from the *Eros*. The *Plattsburgh* and the *Eros* subsequently sailed to Cuba.<sup>69</sup>

In Cuba, Stark arranged for the transfer of the *Plattsburgh's* title to Juan Marino, a Spanish subject. The *Plattsburgh's* name was changed to *Maria Gertrudes*, and a new master was given command of the ship.<sup>70</sup> However, the original master Smith, remained on board and continued to issue orders to the officers and crew in writing. One example of the orders that Smith wrote to the first mate while he was allegedly a passenger was as follows.

“Sir, I wish you to get the schooner down to Morro in the morning, and get the men quartered to the guns, and station them on the tops and forecastle, the same

as on board armed ships, and get all ready for going to sea To Morow night. After you get down to Morro, send the boat with four men, for me. Yours Jos. Smith.[sic]”<sup>71</sup>

Additionally the log book was kept in English. Most of the crew were American and spoke English.<sup>72</sup> Although a few Spanish crew members were still on board they worked through an interpreter who spoke English, and receive commands from the American crew. The crew was discharged when the vessel was sold, and then subsequently rehired by the new “owner.” However, the crew had been informed before this transaction that the *Plattsburgh* would be sailing to Africa.<sup>73</sup>

After she was outfitted the *Plattsburgh*, operating under the alias *Maria Gertrudes*, set sail for the coast of Africa. After she arrived, a party was sent ashore the first day. However, the next day the *Plattsburgh* was interdicted by a boarding party from the *Cyane* under the command of LT Stringham.<sup>74</sup> No slaves were found on board. Nevertheless, the *Cyane's* commanding officer determined that there was probable cause to hold the *Plattsburgh* as an American ship illegally engaging in the international slave trade. This was undoubtedly based in part on the fact that the *Plattsburgh* was a Baltimore clipper<sup>75</sup> and thus was “similar in respect to size, fitments, and general appearance” to “all the vessels hovering on [the African] coast” for the purpose of trafficking slaves.<sup>76</sup> The presence of the predominantly American crew and the ship’s log (kept in English) would also have been further proof that the ship was American.

The *Plattsburgh* was eventually sailed back to New York City, where she was condemned in the United States District Court for the Southern District of New York for violating the Slave Trade Acts of 1794 and 1800. In an unreported decision Judge William P. Van Ness held that the *Plattsburgh* should be condemned under the Slave Trade Acts, because her voyage had originated in the United States. Therefore, she was American property at the time of seizure.

Judge Van Ness further opined that “the prohibition [of the international slave trade] ... is nearly universal; and it is pressed upon their serious deliberation whether this traffic may not now be pronounced, as well contrary to the law of nations as of nature.”<sup>77</sup> Marino, the *Plattsburgh's* Spanish “owner” appealed.

The Circuit Court of Appeals affirmed the decision *pro forma*, and the Supreme Court heard the case.<sup>78</sup> In their argument that the *Plattsburgh* was a duly registered Spanish ship legally engaged in the international slave trade, Marino's attorneys cited to *The Diana*,<sup>79</sup> and *The Louis*.<sup>80</sup> In *The Diana*,<sup>81</sup> Sir William Scott opined that national governments “did not mean to set themselves up as legislators for the whole world, or presume in any manner to interfere with the commercial regulations of other states.”<sup>82</sup> In *The Louis*,<sup>83</sup> Scott further opined that slavery could not be considered a violation of the law of nations, because “standard[s] must be found in the law of nations, as fixed and evidenced by general and ancient, and admitted practice, by treaties, and by the general tenor of the laws and ordinances.”<sup>84</sup>

In the government's argument the *Plattsburgh* was actually an American vessel, the government cited to *The Fortuna*,<sup>85</sup> and *The Donna Marianna*.<sup>86</sup> In *The Fortuna*,<sup>87</sup> a British court condemned an American vessel engaged in the international slave trade on the grounds that the vessel could only prevail if the United States guaranteed a right for the vessel to be engaged in the international slave trade; which it didn't. In *The Donna Marianna*,<sup>88</sup> a British court condemned a British vessel that had been sold to Portuguese interests to be used in the slave trade when the vessels registration papers contradicted each other “leaving the whole transaction of the transfer in great doubt and obscurity.”<sup>89</sup> Sir Scott opined “I can have no doubt that this Court is bound to judicially consider this a British vessel.”<sup>90</sup>

However, the government also looked to American cases in its arguments. The

government relied on *The St. Jago de Cuba*,<sup>91</sup> in its arguments. In *The St. Jago de Cuba*,<sup>92</sup> the owner of an American vessel contracted an agent to sail a vessel to Cuba and sell it. After the vessel was sold the buyer used the vessel to engage in the international slave trade. Although the vessel was under color of Spanish title, the Supreme Court held that the vessel was actually American and the ship was condemned.

The Supreme Court declined to extend Judge Van Ness's dicta that the international slave trade violated international law.<sup>93</sup> In fact the Supreme Court repudiated Judge Van Ness's claim in another case *The Antelope*,<sup>94</sup> that was released the same day as *The Plattsburgh*.<sup>95</sup> In *The Antelope*,<sup>96</sup> the Court held that the “African slave trade is contrary to the law of nature, but is not prohibited by the positive law of nations.”<sup>97</sup>

Although the Supreme Court declined to affirm Judge Van Ness's dicta that the international slave trade was now a violation of international law, the Court affirmed the District Courts' determination that the *Plattsburgh* should be condemned.<sup>98</sup> The Court held that the essential issue to the case was whether the *Plattsburgh* was still subject to forfeiture under American law. The Court held that the *Plattsburgh* was indeed an American ship for two reasons. First, although most of the outfitting of the ship took place in Cuba, the ship was outfitted for the slave trade while still in American waters. Second, the Court held that the presence of Stark onboard as well as the predominantly American crew was sufficient to declare the *Plattsburgh* an American ship subject to American law.

The *Plattsburgh* was outfitted for the slave trade when manacles were brought onboard while the ship was still in the Chesapeake bay. Citing to *The Emily and The Caroline*,<sup>99</sup> a case involving American ships outfitted for slavery at the pier but condemned before they could leave port, the Court held that any preparations no matter how small constitute a violation of the Slave

Trade Act of 1794. Consequently, when Stark brought the manacles on board smuggled in a barrel this alone would have been sufficient to condemn the vessel.<sup>100</sup>

Even so, the *Plattsburgh* was still subject to forfeiture, because of the presence of the American master and the predominantly American crew. The Court also relied heavily on the letter from Smith to the crew to determine that Smith was actually still in command of the *Plattsburgh*. Writing for the Court, Justice Joseph Story opined, “But what is decisive, to show that this is a mere disguise ... is the letter found on board ... in which the mask is stripped off[.] ... Nothing can be more unlike the character ... of a passenger than these directions.”<sup>101</sup>

If Smith was still the master this indicates that this was still an American vessel. The Court went on to say that if Marino was a *bona fide* purchaser he would have done well to remove any indication that this was still an American vessel by removing Smith and the other American personnel from it.<sup>102</sup> Consequently, the Court found that the transfer of the manacles, while still in American waters, and Smith’s communication to the predominantly American crew was sufficient to condemn the *Plattsburgh*.

### ***The Plattsburgh Unveiled.***

When Thomas Sheppard sent the *Plattsburgh* to Cuba, he undoubtedly intended that it should be used in the slave trade, and that he would receive a share of profits from the voyage. The *Plattsburgh* was involved in the international slave trade from the beginning. Sheppard was involved in subterfuge that was intricately linked to the events of the *Plattsburgh*. The only reason that Sheppard would try to cover his tracks is if he had something to hide, and since it was involved with a ship that was engaged in the slave trade it stands to reason the Sheppard was involved.

One can safely assume that the *Plattsburgh* was involved in the international slave trade



from the beginning of its voyage for the same reasons stated by the supreme court. Specifically that Smith remained on board as an *incognito* master of the vessel after the vessel was sold to Marino. Furthermore the testimony of the crew that irons and manacles were smuggled on board while the ship was still in American waters also indicates that the *Plattsburgh* was involved in the international slave trade even before it was sold to Marino.<sup>103</sup>

It is highly unlikely that Sheppard and Stark were truly selling the *Plattsburgh* to Marino. Granted, it is not impossible that Sheppard falling on hard times would wish to sell a ship. It's also not impossible that Sheppard would believe that he could fetch a good price for the ship in Cuba. However, the inordinate amount of subterfuge associated with the sale makes this unlikely. After Sheppard bought D'Arcy's and Didier's share of the *Plattsburgh* he failed to alter the vessel's registry, in violation of federal law.<sup>104</sup> Sheppard claimed that this was because he happened to be insolvent at the time. Now it is true that Sheppard probably was in dire financial straits at the time. This was in the middle of the Panic of 1819, when many merchants and ship owners were fighting to stay afloat.<sup>105</sup>

However, it seems unlikely that D'Arcy and Didier, who themselves were nearly insolvent at the time, would agree to allow Sheppard to buy their portion of the *Plattsburgh* (worth \$6,000.00 in 1819 over \$88,000.00 in today's currency<sup>106</sup>) on credit. After all, D'arc and Didier were also desperate for liquidity. This seems even more incredible when they, as sophisticated and experienced shipowners, would have known that Sheppard's failure to register the vessel could lead to subsequent legal complications. Legal complication would make it even less likely that they would get repaid. This suggests that we cannot take Sheppard's story at face value, and Sheppard must be hiding something.

If Sheppard is hiding something, then the fact that this was a slave trade operation from

the beginning suggests that Shepard knew about it from the beginning. Furthermore the fact that Shepard needed money, and the slave trade was highly lucrative is further evidence that Shepard was involved in an international slave trade operation from the beginning.

Consequently, we can conclude that Shepard was part of a conspiracy with Smith and Stark to engage in the international slave trade in violation of federal law.

### **So Just Who Was In On the Conspiracy?**

Naturally we can assume that at the very least Shepard, Smith, and Stark were involved in the conspiracy to engage in the international slave trade. Shepard provided the ship. Stark provided the documents, and Smith commanded the ship. But does the conspiracy end there. Now in these sorts of speculations there is always the propensity to spiral off into wild flights of fancy. Naturally this is something to be avoided. Nevertheless based on the facts before us, there are numerous links to other ship owners and privateers who have a history of traveling in circles of people who flagrantly violate federal law. Based on these facts it is reasonable to suspect John N. D'Arcy, Henry Didier, and Thomas Boyle.

The first likely suspects are D'Arcy and Didier. D'Arcy and Didier were partners in a shipping firm together. They owned numerous privateers during the War of 1812, and made a great deal of money.<sup>107</sup> Nevertheless D'Arcy and Didier were hit hard by the Panic of 1819, and needed liquidity. As stated earlier, it seems unlikely that D'Arcy and Didier would have voluntarily sold their share of the *Plattsburgh* on credit when they were so strapped for liquidity. This seems even more incredible, because if the ship was forfeited, D'Arcy and Didier would sustain a total loss on their investment. Furthermore D'Arcy and Didier were quite comfortable violating federal neutrality laws in order to finance privateers who were attacking the ships of nations that the United States was not at war with.<sup>108</sup>

It should be noted that just because D'Arcy and Didier were breaking other federal legislation doesn't necessarily mean that they were breaking the anti-slave trade legislation. However, it does indicate that they would have had access to and would be quite comfortable exploiting the same kinds of black market networks that would be used to violate the anti-slave trade legislation.<sup>109</sup> Given that they had a history of circulating in black market networks, were in desperate need of funds, and had close links to Sheppard and the case, D'Arcy and Didier had means, motive, and opportunity to participate in this conspiracy. It is therefore reasonable to suspect that D'Arcy and Didier were also involved in the scheme. To what extent is uncertain at this point.

Thomas Boyle is another likely suspect. Boyle was captain and shipowner whose claim to fame includes personally proclaiming the British Isles under blockade during the War of 1812. In support of this effort Boyle had exactly one ship.<sup>110</sup> Boyle's only connection with this case is that Boyle owned the *Eros*.<sup>111</sup> The act of loading the manacles, hidden inside a barrel, onto the *Eros* and later transferring them to the *Plattsburgh* was a key component of the conspiracy between Sheppard, Stark, and Smith. The only question is to what degree did Boyle know about it. It's entirely possible that Stark simply found a ship with similar travel plans to the *Plattsburgh*. Stark then would have simply contracted them to rendezvous with the *Plattsburgh* in order to transfer Stark and the barrels. The crew might not have known that the barrels contained irons and manacles inside. The *Eros* may simply have been the ship that had similar travel plans.

However, even under this scenario, one can simply make the argument that the crew of the *Eros* was remaining willfully ignorant of Stark's plans. After all, the *Plattsburgh* was in the same harbor as the *Eros* and left at approximately the same time.<sup>112</sup> The question must have

occurred to the master or supercargo of the *Eros*, “Why don't you just take yourself and your barrel onto the *Plattsburgh* while it's still moored in the harbor, rather than trying to rendezvous with her in the middle of the Chesapeake Bay at night?” The obvious answer, which would have been clear to an experienced crew, is that Stark was hiding something, and he didn't want to risk getting caught in Baltimore harbor by the light of day.

Considering Boyle's record as a highly capable commander, it seems unlikely that Boyle would only have a mere cursory knowledge of what was going onboard his ship.<sup>113</sup>

Nevertheless, even operating under this assumption, it is still reasonable to assume that at the very least Boyle would have known that the *Eros* was making suspicious rendezvous in the middle of the night. Therefore Boyle at the very least was remaining willfully ignorant of this kind of suspicious activity. Although this is not technically a conspiracy, in that it does not involve a solicitation from a party to commit a criminal act and an agreement to commit a criminal act by another,<sup>114</sup> it is still a reasonable conclusion that Boyle was tacitly consenting to this kind of activity to occur on his ship.

Furthermore, it is still entirely possible that Boyle was even more intricately involved in Sheppard, Stark, and Smith's plot. Boyle traveled in the same circles as Sheppard, D'Arcy, and Didier. Boyle was living through the same financial crisis in 1819. Boyle is linked to the case. Accordingly Boyle also has similar means, motive, and opportunity that D'Arcy and Didier had. It is therefore reasonable to suspect that Boyle was potentially involved in the conspiracy.

## **Conclusion**

Thomas Sheppard conspired with George Stark and Captain Joseph Smith to enslave Africans and bring them to the New World. The international slave trade was a evil and barbaric institution, and it was explicitly prohibited by federal legislation. Despite this fact, in 1819 the

practice was quite common, because the international slave trade was incredibly lucrative. Not only was the international slave trade incredibly lucrative, but the Panic of 1819 created an incentive for merchants, who were desperate for cash, to violate the law.

It was under these conditions that Sheppard, Stark, and Smith attempted to use the *Plattsburgh* to capture slaves. The fact that Sheppard, Stark, and Smith attempted to cover their tracks while they were doing it, indicates that they knew what they were doing was wrong. Furthermore, the links to several other prominent figures, including John N. D'Arcy, Henry Didier, and Thomas Boyle, indicates that they may not have been acting alone. This case gives deeper and more realistic insight into a time period that is often sugared over with romanticism forcing us, once again, to reconcile the fairy tale past we would like to sing about against the true history that often involves, unfortunately, destruction and devastation.

## APPENDIX

**Thomas Sheppard (~1776-????)**

**Merchant**

**Mechanics Bank Director (~1807-????)**

**Athenian Society (1810-1815)**

**No Picture Available**

### **Biographic Profile of Thomas Sheppard**

Thomas Sheppard was born on or about 1776 and resided in Baltimore Maryland.<sup>1</sup> He eventually became a highly successful flour merchant.<sup>2</sup> Flour was an important commodity to the fledgling economy of Baltimore, because unlike flour from other ports Baltimore flour wouldn't spoil in the warm climates of Brazil.<sup>3</sup>

His success in the industry earned him enough esteem that by 1807 he was nominated to be a director of the Mechanic's Bank. The individual who nominated Sheppard for the position noted that Sheppard was "a gentleman in very independent circumstances, acquired by his own indefatigable industry." However, this may have simply been an attempt to deflect from the fact that directors of the Mechanic's Bank were required to be artisans, and that Sheppard did not meet this criterion.<sup>4</sup> Additionally, by 1810, Thomas Sheppard was listed as stockholder for the

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1. Thomas Sheppard Deposition August 23, 1821, 201, M214, Roll 62, US Appellate Case File No. 1214, National Archives Washington, DC.

2. David Head. *A Different Kind of Maritime Predation South American Privateering from Baltimore, 1816-1820*. 7(2) International Journal of Naval History (2008).

3. Pearle Blood. *Factors in the Economic Development of Baltimore, Maryland*. 13(2) Economic Geography 187, 190 (1937).

4. Peskin, Laurence A. *Manufacturing Revolution: The Intellectual Origins of Early American Industry*. Johns Hopkins University Press, 2007. Print. P. 150-151. *See also* Sfeffen, Charles G. *The Mechanics of Baltimore: Workers and Politics in the Age of Revolution*. IL: University of IL, 1984. P. 199-200.

Athenian Society, but, by 1815, he had been dropped from the roles.<sup>5</sup> He was also a stockholder in the Baltimore to Havre de Grace turnpike in 1813.<sup>6</sup>

Thomas Sheppard was intimately involved in Baltimore shipping community and partnered with famous shipping houses such as the D'Arcy & Diddier.<sup>7</sup> Probably the most famous ship that Sheppard ever bought was the *Chassuer*, dubbed by the press “The Pride of Baltimore.” Sheppard eventually sold the ship to Spanish Navy.<sup>8</sup> By 1819, possibly feeling financial pressure from the Panic of 1819, Sheppard invested in a slave trade expedition. The *Plattsburgh*, the ship used for the expedition, was interdicted off the coast of Africa and condemned by federal courts for violating the Slave Trade Acts.<sup>9</sup>

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5. MD Session Laws of 1810, Ch. CXV (1810). MD Session Laws of 1815, Ch. 216 (1815).

6. MD Session Laws of 1813, Ch. 166 (1813).

7. *The Plattsburgh*, 10 Wheat 133, (1825).

8. Paine, Lincoln P. *Warships of the World to 1900*. New York: Mariner Books, 2000. Print. P. 34.

9. *The Plattsburgh*, 10 Wheat 133, (1825).

# END NOTES

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1. *Plattsburgh* Ship Registry Baltimore MD October 18 1817, M214, Roll 62, US Appellate Case File No. 1214, National Archives Washington, DC.
2. John Fervor, Deposition January 22, 1821, 158, M214, Roll 62, US Appellate Case File No. 1214, National Archives Washington, DC.
3. Fervor, *supra.* at 158.
4. Trenchard, Captain Edward, “Letter Dated April 10, 1820.” *A View of the Present State of the African Slave Trade*, Ed. Yearly Meeting of the Religious Society of Friends. Philadelphia: William Brown, 1824. Print. P. 33-34.
5. “What Was it Like to Be Shot Up by 'Old Ironsides.'” *American Heritage* April/May 1983. Print.
6. Trenchard, *supra.* at 33-34.
7. Cavanagh, Carl, and Cathel J. Nolan. *US Presidents and Foreign Policy*. Santa Barbara: ABC-CLIO, Inc. 2007. Print. P. 49.
8. Trenchard, *supra.* at 33-34.
9. Todd, Gerald. *The Pride of Baltimore II*, October 1st, 1981. Photograph.
10. Fervor, *supra.* at 158-159.
11. McClay, Edgar Stanton. *Reminiscences of the Old Navy*. New York: G. P. Putnam and Sons, 1819. Print. P. 16-17.
12. Chapelle, Howard Irving. *The Baltimore Clipper: It's Origin and Development*. New York: Dover Publications Inc, 1988. Print. P. 108.
13. William P. Mason, *Report of the Case of the Jeune Eugenie*, 101-103 Boston (1822). *available at* <https://archive.org/details/areportcasejeun00circgoog> as well as Google Books.
14. *The Plattsburgh*, 23 U.S. 133 (1825). The case was cited in only six cases. Four out of six of them our trial court cases. The citations from appellate courts are in string citations.
15. An Act of March 22, 1794, Ch 11, 1 Stat. 347 (1794).; An Act of May 10, 1800, Ch 51, 2 Stat. 70 (1800).; Act of February 28, 1803, Ch 10, 2 Stat. 205 (1803).; An Act of March 2, 1807, 2 Stat. 426 (1807).
16. Trenchard, *supra.* at 33-34. Trenchard describes capturing the *Esperenza* a slave ship from South Carolina and the *Endmion* a slave ship from Baltimore during the same cruise that the



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*Cyane* interdicted the *Plattsburgh*. Trenchard also describes generally that these vessels are common.

17. 23 U.S. 133 (1825).

18. *Plattsburgh*, 23 U.S. 133 (1825).

19. United States Department of Labor and Commerce Bureau of the Census. *A Century of Population Growth: From the First Census of the United States to the Twelfth, 1790–1900*. Government Printing Office, District of Columbia, (1909). Print. P. 47, 139.

20. Vermont Declaration of Right, Art. 1 (1777). Massachusetts Declaration of Right, Art. 1 (1780). *See Commonwealth v. Jennison*, holding that Massachusetts Constitution prohibits slavery.

21. Miller, Randall M, and John David Smith. *Gradual Abolition*, Dictionary of Afro American Slavery Greenwood Publishing Group. 1997. Print. P. 471.

22. Keith L. Dougherty and Jac C. Heckleman. *Voting on Slavery at the Constitutional Convention*, 136(3/4) Public Choice 293, 294-295 (2008).

23. United States Constitution, Art. 1, Section 8; United States Constitution, Art. 1, Section 9.

24. An Act of March 22, 1794, Ch 11, 1 Stat. 347 (1794).

25. *Id.*

26. An Act of May 10, 1800, Ch 51, 2 Stat. 70 (1800).

27. *The Inflation Calculator*, available at <http://www.westegg.com/inflation/>

28. Act of February 28, 1803, Ch 10, 2 Stat. 205 (1803).

29. Paul Finkelman. *Slavery in the United States Persons or Property in The Legal Understanding of Slavery: From the Historical to the Contemporary*, 120 (2012).

30. An Act of March 2, 1807, 2 Stat. 426 (1807).

31. United States Constitution, Art. 1, Section 9.

32. Clayton, Ralph. *Cash for Blood The Baltimore to New Orleans Domestic Slave Trade*. Bowie, MD: Heritage Books Inc. (2002). Print.

Additionally, On May 15, 1820 Congress passed a law defining slavery as piracy. An Act of May 15, 1820, 3 Stat. 600 (1820). However, the events the *Plattsburgh* took place prior to this.

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33. An Act of March 22, 1794, Ch 11, 1 Stat. 347 (1794).
  34. United States Constitution, Art. 1, Section 8.
  35. Wheaton, Henry. *A Digest of the Law of Maritime Captures*. New York: Fobes and Co. Printers, 1815. Print.
  36. *Id.*
  37. Wheaton, *supra.* at 363-378.
  38. “In rem jurisdiction.” *Black's Law Dictionary 9th Edition* Ed. Bryan A. Gardner. 929. St. Paul: West, 2009. Print.
  39. 23 U.S. 133 (1825). However, in the lower court documents the caption is listed as the *United States and the Officers and Crew of the Warship Cyane vs. The Plattsburgh et. al.* Fervor, *supra.* at 156.
  40. *Id.*
  41. *The Emily and The Caroline*, 9 Wheat 381 (1824).
  42. Dougherty, *supra.*
  43. An Act of March 22, 1794, Ch 11, 1 Stat. 347 (1794).
  44. Finkelman, *supra.*
  45. Cavanagh, *supra.*
  46. *A View of the Present State of the African Slave Trade*, Ed. Yearly Meeting of the Religious Society of Friends. Philadelphia: William Brown, 1824. Print. P. 42-48.
  47. Loyd, Christopher. *Navy and the Slave Trade*. New York: Routledge, 2007. Print. P. 56-57
  48. Tinnie, Dinzulu Gene. *The Slaving Brig Henriqueta and Her Evil Sisters: A Case Study in the 19th-Century Illegal Slave Trade to Brazil*. 93(4) *The Journal of African American History* 509, 513 (2008).
  49. Chappelle, *supra* at 3.
  50. Pearle Blood. *Factors in the Economic Development of Baltimore, Maryland*. 13(2) *Economic Geography* 187 (1937).
  51. Cranwell, John Phillips, and William Bowers Crane. *Men of Marque A History of Private*

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*Armed Vessels Out of Baltimore During the War of 1812*. New York: W.W. Norton & Company Inc. 1940. Print.

52. David Head. *A Different Kind of Maritime Predation: South American Privateering from Baltimore, 1816-1820*. 7(2) *International Journal of Naval History* (2008).

53. Note 16 *supra*.

54. Tinnie, *supra*. at 512.

55. *The Inflation Calculator*, available at <http://www.westegg.com/inflation/>.

56. *Plattsburgh Ship Registry Baltimore MD October 18 1817*, *Supra*.

57. Head, *supra*.

58. Rev. Robert Walsh. *Notices of Brazil in 1828 and 1829*, vol 2 (London, 1830), 469-71.

59. Tinnie, *supra* at 520-21.

60. *Plattsburgh Ship Registry Baltimore MD October 18 1817*, *Supra*.

61. Head, *supra*. at Appendix.

62. Head, *supra*. at Appendix.; Cranwell, *supra*. at 74.

63. *Plattsburgh Ship Registry Baltimore MD October 18 1817*, *Supra*.

64. *The Plattsburgh*, 23 U.S. 133 (1825).

65. Thomas Sheppard Deposition August 23, 1821, 201, M214, Roll 62, US Appellate Case File No. 1214, National Archives Washington, DC.

66. Fervor, *supra*. at 157.

67. *Id.*

68. Sheppard, *supra*. at 203.

69. Fervor, *supra*. at 157.

70. *The Plattsburgh*, 23 U.S. 133 (1825).

71. *Id.* At 145.

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72. *Id.* At 141.
73. Fervor, *supra.* at 157.
74. Fervor, *supra.* at 158-159.
75. *Plattsburgh* Ship Registry Baltimore MD October 18 1817, M214, Roll 62, US Appellate Case File No. 1214, National Archives Washington, DC.
76. Trenchard, *supra.* at 34.
77. Mason, *supra.* at 101-103.
78. *The Plattsburgh*, 23 U.S. 133 (1825).
79. 1 Dodson's Rep. 95.
80. 2 Dodson's Rep. 228; *The Plattsburgh*, 23 U.S. 133, Note A (1825).
81. 1 Dodson's Rep. 95.
82. *Id.*
83. 2 Dodson's Rep. 228.
84. *Id.*
85. 1 Dodson's Rep. 81.
86. 1 Dodson's Rep. 91.; *The Plattsburgh*, 23 U.S. 133, Note B (1825).
87. 1 Dodson's Rep. 81.
88. 1 Dodson's Rep. 91
89. *Id.*
90. *Id.*
91. 9 Wheat 409 (1824).; *The Plattsburgh*, 23 U.S. 133, Note B (1825).
92. 9 Wheat 409 (1824).
93. *The Plattsburgh*, 23 U.S. 133, (1825).
94. *The Antelope*, 23 U.S. 66, (1825).

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95. 23 U.S. 133, (1825).
96. 23 U.S. 66, (1825).
97. *Id.*
98. *The Plattsburgh*, 23 U.S. 133, (1825).
99. *The Emily and The Caroline*, 9 Wheat 381 (1824).; *The Plattsburgh*, 23 U.S. 133, Note C (1825).
100. *The Plattsburgh*, 23 U.S. 133, 141 (1825).
101. *Id.* at 145.
102. *Id.* at 143.
103. *Id.* at 141-143.
104. Sheppard Deposition, *supra.* at 201-201.
105. Head, *supra.*
106. *The Inflation Calculator*, available at <http://www.westegg.com/inflation/>.
107. Cranwell *supra.* at 76, 120-121, & 317-328.
108. Head, *supra.*
109. *Id.*
110. Cranwell, *supra.* at 226 & 240-246. Normally a reasonable individual would react with skepticism to the idea that Boyle's single ship blockade could be effective. Nevertheless Boyle successfully captured many prizes and evaded three British warships. Boyle's ship, the *Chassuer*, was declared "The Pride of Baltimore" by the press.
- See also* Paine, Lincoln P. *Warships of the World to 1900*. New York: Mariner Books, 2000. Print. P. 34. Thomas Sheppard would eventually buy the *Chassuer* and then sell her to the Spanish Navy.
111. Sheppard, *supra.* at 203.
112. Fervor, *supra.* at 156-158.

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113. Cranwell, *supra*. at 226 & 240-246.

114. "Conspiracy." *Black's Law Dictionary 9th Edition* Ed. Bryan A. Gardner. 351. St. Paul: West, 2009. Print.