

Seton Hall University

eRepository @ Seton Hall

Seton Hall University Dissertations and Theses
(ETDs)

Seton Hall University Dissertations and Theses

Spring 5-16-2020

"I speak for the preservation of the Union" : Daniel Webster, Law, and Morality in the writings of the American Renaissance

Rebecca Nicole Girardin
rebecca.girardin@student.shu.edu

Follow this and additional works at: <https://scholarship.shu.edu/dissertations>



Part of the [American Literature Commons](#)

Recommended Citation

Girardin, Rebecca Nicole, "I speak for the preservation of the Union" : Daniel Webster, Law, and Morality in the writings of the American Renaissance" (2020). *Seton Hall University Dissertations and Theses (ETDs)*. 2763.

<https://scholarship.shu.edu/dissertations/2763>

“I speak for the preservation of the Union”:
Daniel Webster, Law, and Morality in the writings of the American Renaissance

Rebecca Nicole Girardin

M. A. Seton Hall University, May 2020

A Thesis

Submitted in Partial Fulfillment of the Requirements for the

Master of Arts

In English

The Department of English

College of Arts and Sciences

Seton Hall University

May 2020

© Rebecca Nicole Girardin, May 2020

All Rights Reserved

Seton Hall University
College of Arts and Sciences
Department of English

APPROVAL FOR SUCCESSFUL COMPLETION OF THE MASTERS THESIS

This Thesis, “‘I speak for the preservation of the Union’: Daniel Webster, Law, and Morality in the writings of the American Renaissance,” by Rebecca Nicole Girardin, has been approved for submission for the Degree of Master of Arts in English (Literature) by:

Approved by:



Russell Sbriglia, Thesis Advisor



Mary M. Balkun, Second Reader

Abstract

Daniel Webster, one of the most prominent politicians and orators in American history, effectively ended his political career on March 7th, 1850. Webster's support of the Compromise of 1850 included the Fugitive Slave Law, which forced Northern complicity in the return of captured fugitive slaves. Webster supported the legislation because he interpreted the law based on precedent and a notion of "natural law" determined by geography rather than morality. In this thesis, I look at how two writers of the American Renaissance, Ralph Waldo Emerson and Harriet Beecher Stowe, used literature to critique the understanding of law promoted by Webster in his "Seventh of March" speech. Both Emerson and Stowe rejected Webster's framing of the law through precedent and nature, instead advocating for laws to be based on the "higher law" of sympathy or moral sentiment. However, these authors took different rhetorical approaches to protesting Webster's speech. Emerson took his protest to the lectern and delivered speeches that fought Webster intellectually on his interpretation of the law. For Stowe, as *Uncle Tom's Cabin* testifies, the novel was the genre she felt most effective for moving people to feel the injustices of slavery and the Fugitive Slave Law. In her novel, Stowe dramatizes Emerson's claims about the higher law and shows how sympathy and moral sentiment always trumps the "positive law" of man. In the end, both Emerson and Stowe attempt to make the higher law of sympathy the law of the land as opposed to Webster's "natural law," and only through this framing can the law reject statutes that perpetuate the institution of slavery.

I. Introduction

On March 7, 1850, constitutional lawyer Daniel Webster spoke for three and a half hours on the Senate floor with each word both further alienating him from his constituents and further inciting tensions between the North and South while he advocated for the passage of the Fugitive Slave Law. The Fugitive Slave Law, which was eventually approved and adopted on September 18, 1850, modified the 1793 Fugitive Slave Act. Most Northern states had intentionally neglected to enforce the 1793 legislation, which required fugitive slaves who had crossed into Free states to be returned back to enslavement. The revised Slave Act was part of Henry Clay's Compromise of 1850, which sought to quell threats of Southern secession, and this new Fugitive Slave Law forced Northern states to be complicit in returning escaped slaves back to the South and eliminated a state's right to enforce the law by placing cases of captured fugitive slaves in the hands of federal commissioners. The debate over the passage of the Compromise of 1850 continued from January to September and eventually required the help of "Godlike Daniel" Webster to intervene in the Congressional debates over the legislation (Gougeon 138). Webster began his speech by renouncing his regional identity and telling the Senate, "Mr. President, I wish to speak today, not as a Massachusetts man, nor as a northern man, but as an American, and a member of the Senate of the United States" (para. 1). Through his speech, immortalized as his "Seventh of March" speech, Webster argued as an "American" but alienated his Northern abolitionist constituents and linked himself to a piece of legislation destined to go down in infamy.

Prior to his public support of the Fugitive Slave Law, Webster was already universally applauded among his fellow Northerners. In 1838, the "Webster Festival" at Faneuil Hall published an "Ode to Commemorate the Civic Festival Given to the Hon. Daniel Webster;" the

Ode, which combined politics and the traditional poetic form, featured lines such as the following:

He has labored hard in Freedom's cause
 And richest laurels won,
 And now we'll welcome with applause,
 New – England's favorite son. (*Webster festival* 32 – 35)

The ode celebrates Webster and his efforts on behalf of “Freedom’s cause” and Northern interests. Webster’s status as “New England’s favorite son” also emerged from his legal influence on the Marshall Supreme Court, where Webster’s participation in over 200 cases, including the national landmark cases of *Dartmouth College v. Woodward* (1819), *McCulloch v. Maryland* (1819), and *Gibbons v. Ogden* (1824), helped to shape constitutional law. The “Ode” calls Webster “our polar star, / who’ll one day rule the nation” (*Webster festival* 47 - 48).

Given Webster’s popularity and insistence on publishing his speech, the writers and thinkers of the American Renaissance started to respond to Webster’s decision and the implications of the 1850 Fugitive Slave Law. Initially, most of the reactions to Webster’s “Seventh of March” speech were emotionally charged and focused on the moral failure of Webster rather than critiquing his motivations for supporting the Fugitive Slave Law. Among these writers was John Greenleaf Whittier, who published a poem entitled “Ichabod” in which he portrays Webster as fallen from his political grace following the “Seventh of March” speech. Whittier described his motivations behind publishing the poem: “this poem was the outcome of the surprise and grief and forecast of evil consequences which I felt on reading the seventh of March speech of Daniel Webster in support of the ‘compromise’ and the Fugitive Slave Law.”

Whittier used literature to protest the law and, within the poem, he even likened Webster to “a fallen angel” (27), writing:

So fallen! so lost! the light withdrawn
 Which once he wore!
 The glory from his gray hairs gone
 Forevermore! (1 – 4)

The harsh response continues, arguing that the “grief” which motivated Whittier to write “Ichabod” was not only for the nation’s future in light of the law, but also the fall of Webster’s “glory.” With “the light withdrawn,” Whittier focuses on Webster’s diminishment from “New England’s favorite son” to a fallen angel. Whittier’s response primarily emphasized the betrayal of Webster from his constituents. Rather than focusing on the law itself, Whittier uses poetry to critique Webster’s personhood as a precursor to other responses. Other American Renaissance writers would continue to critique Webster, but would move beyond the emotional response into an outward critique of the Fugitive Slave Law and Webster’s framing of positive law.

Following the passage of the Fugitive Slave Law, a number of American Renaissance writers were critical not only the law itself, but also of the role that Webster played in helping to pass it. In what follows, I look specifically at the writings of Ralph Waldo Emerson and Harriet Beecher Stowe, both of whom responded to Webster’s “Seventh of March” by making appeals to the “higher law” of moral sentiment or sympathy as the basis for proper action as opposed to legal precedent or Webster’s “natural law.” Whereas Emerson relied upon oration as his primary vehicle, seeking to critique Webster and the Fugitive Slave Law through public antislavery lectures, Stowe, as evidenced by *Uncle Tom’s Cabin*, relied upon the novel as her primary

vehicle of critique of both the Law and Webster. Thus, while both authors combatted Webster and the Law on similar grounds, they did so by way of different literary genres.

II. Webster and the “Seventh of March” Fiasco

Before looking at American Renaissance writers’ responses to Webster’s embrace of and advocacy for the Fugitive Slave Law, it would be helpful to first look at Webster’s own words in favor of the Law itself, his “Seventh of March” speech, in order to understand how he interprets the law and why he chose to support the legislation. Webster’s rhetorical mode for his “Seventh of March” speech privileged economic interpretations of the law, condemned abolitionism, and criticized the concept of “peaceable succession.” Webster’s “Seventh of March” speech begins by crafting a history of enslavement in America in order to frame slavery as an economic and environmental issue rather than a legal or moral one. He creates a story, a narrative of the past, which reviews the “question of slavery” by walking through the treatment of slaves during the Greco-Roman period, as America’s political historical influencer, and the sentiment around slavery during the signing of the Declaration of Independence and the creation of the Constitution. Webster then moves from a historical approach to religious discourse, discussing the separation of religious communities, specifically the formation of the Methodist Episcopal Church, and how that separation was brought about by differences of opinion with regard to slavery’s morality. He argues that the North believes that any form of slavery, no matter the modifications, does not align with “the meek spirit of the Gospel” and does not “let the oppressed go free,” as required in the Christian Bible (270). Webster’s discussion of the morality of slavery comes to the conclusion that the South does not view slavery as an institution that directly violates Christian religious teaching, which means that, according to Webster, interpretations of the Bible cannot create a clear guidance for supporting or not supporting

slavery. Because Webster believes that religion cannot be used to critique the law, determining the validity of the law requires a separate non-religious, apparatus (273). Since religion cannot be used to weigh legal decisions, Webster uniformly removes morality from his reasoning.

In search of a new apparatus for interpreting the law, Webster concludes that economics and physical environment drive the law. He bases this reasoning on the fact that the history of states' admission into the Union has been based on environmental factors that would produce the best economy for the state. For instance, Texas was "capable of being cultivated by slave labor" and, Webster argues, had to be admitted as a slave state in order to allow the territory to thrive economically (275). Webster argues, "there is not, at this moment, within the United States, or any territory of the United States, a single foot of land, the character of which, in regard to its being free-soil territory or slave territory, is not fixed by some law, and some irrevocable law, beyond the power of the action of this government" (275). In this case, the "law" that Webster views as the most important in determining political action comes from the "law" of nature. Webster continues to refine this definition of "law" by saying that California and New Mexico are destined to be Free states. He argues, "I hold slavery to be excluded from those territories by a law even superior to that which admits and sanctions it in Texas – I mean the law of nature – of physical geography – the law of the formation of the earth. That law settles forever, with a strength beyond all terms of human enactment, that slavery cannot exist in California or New Mexico" (280). Webster takes the "law of nature" to literally mean the physical land. The "law of nature" is the "law of the formation of the earth," which determines whether the land can produce cotton and plantation crops, and this law is the motivating force behind the admittance of states into the Union as free or slave. Webster relies on physicality or physical evidence, in this case the environment, as proof and validation of his reading of the law. Dismissing religious

interpretations of the law, he argues that the political motivations for determining Free/Slave states must come from the law of nature, which in turn frames the Compromise of 1850 as driven by economics.

Webster uses the law referentially and refers to case law and former speeches to uphold his argument in favor of the Compromise of 1850. He cites the admission of Texas into the union and the establishment of the Missouri Compromise line with a comment that showcases his decision to defer to former rulings rather than interpret new legislation: “my habit is to respect the result of judicial deliberations and the solemnity of judicial decisions” (282–83). He privileges “former ruling” rather than re-interpretations of the law. This sentence also enforces the solemnity of previous doctrine and rulings. Webster goes on to ask his fellow congressmen, specifically Northerners, what right they have to re-interpret the Constitution in pursuit of their goals. He continues his support of respecting former rulings when he argues,

I put it to all the sober and sound minds at the North, as a question of morals and a question of conscience, what right have they, in their legislative capacity, or any other, to endeavor to get round this Constitution, to embarrass the free exercise of the rights secured by the Constitution, to the persons whose slaves escape from them? None at all – none at all. Neither in the forum of conscience, nor before the face of the Constitution, are they justified, in my opinion. (283)

Here, when Webster does reference a “question of morals and a questions of conscience,” he refers to Northerners attempting to “get round” the Constitution and the constitutional rights that slave owners have to the “property” of their fugitive slaves. Webster frames the argument to suggest that not supporting the Fugitive Slave Law also disrespects the Constitution itself. His critique of the North goes beyond Northerners not having the legal ground to object to the law

but also that Northerners also do not have the moral ground to advocate against slavery. He defers to the Constitution as his foundational doctrine and critiques Northerners who use their personal morality as a lens to interpret the document.

It was Webster's rhetorical move to invalidate the moral arguments against the Compromise of 1850 by critiquing abolitionists and moral activists that would eventually be the biggest point of contention with critics of his speech. Webster goes on the offensive by criticizing the actions of the abolitionist societies and "moral crusaders" when he argues, "there are men, who in times of that sort, and disputes of that sort, are of opinion, that human duties may be ascertained with the exactness of mathematics. They deal with morals as with mathematics, and they think what is right, may be distinguished from what is wrong, with the precision of an algebraic equation" (271). He argues that, since morals cannot be dealt with through "mathematics," as many "moral crusaders" may attempt, legislation should not rest upon the absolutisms of activists. He feels that certain abolition societies, which he would not name in his speech, have "produced nothing good or valuable" and have even had "mischie[vous] consequences" because of their interference with the South (284). His condemnation of abolitionist societies allows him to further distance the moral issues of slavery from the Fugitive Slave Law, which then allows Webster to make strictly political arguments, based on economics and the sanctity of the "Union" itself.

Finally, Webster circles back to the preservation of the union and critiques fellow Congressmen who would advocate for anything other than a unified country. He argues that "peaceable secession is an utter impossibility" in response to Southern delegates, like Calhoun, who advocated for a "peaceable secession" should the Northern delegates push anti-slavery legislation. Webster uses language of "dismemberment," "dissol[ution]," and "harmony" to

stress this importance of the “preservation of the union” (286). He questions the logistics of secession, including the re-allocation of public lands and the army, but seems most concerned with the ideological implications of secession. He repeats the phrase “shame” and “shame upon us” (287). If the South does secede, he argues, “What is to remain American? What am I to be – an American no longer” (287). Through his repetition of rhetorical questions, he frames “American” identity as based on living in a shared land rather than religious morality or moral sentiments. Craig Smith, in *Daniel Webster and the Oratory of Civil Religion*, argues, “Webster’s identification with American civil religion helped him elevate his arguments on March 7 to a transcendental level, while providing him with unprecedented credibility” (226). It was Webster’s move of defining the Constitution as an unchallengeable doctrine, adhering to only strict interpretations of the Constitution that provided him with his “unprecedented credibility.” Webster drew upon a “civil religion” grounded not in religious spirituality but in a nationalism. He replaces American religious spirituality with nationalism dependent upon America’s exceptional foundational doctrines, like the Constitution and “Declaration of Independence,” and united physical land. Webster ends his call for the passage of the Compromise as follows: “let us come out into the light of day; let us enjoy the fresh air of liberty and Union; let us cherish those hopes which belong to us” (288). With the imagery of “light of day,” Webster implies that the passage of the legislation can help the nation come out of political darkness. This conclusion perpetuates a message of unity by repeatedly using “us” and implying that the passing of the Compromise of 1850 would bring a form of salvation, apparent in the language of “fresh air” and “hopes which belong to us,” to the Union.

Following the “Seventh of March” speech, Webster faced intensive criticism from his former supporters. Smith writes, “By the end of March [in 1850] over 120,000 copies of his

address had been distributed in the North” (235). Educated Northerners were able to read for themselves the impassioned rhetoric used by Webster to advocate for a law that forced Northerners to participate in returning previously enslaved people and that limited state’s rights to enforce the federal laws. After the speech, and Webster’s insistence on publishing it widely, Northerners were split, with abolitionists coming out firmly against Webster, but newspapers such as the *Boston Courier*, *Philadelphia Evening Bulletin*, and *Albany Argos* pledging support for his “practical” and “patriotic” effort (Smith 232). Due to his condemnation of abolitionists and acknowledgment of the “rights” of Southern slave owners, “Reception in the South was overwhelmingly commendatory, with the *Charleston Mercury*, *Vicksburg Weekly*, and *New Orleans Picayune* applauding Webster for protecting southern interest (232). The sentiments against abolition and in support of the economic institution of slavery helped “win over southern senators who were open to compromise (232). Furthermore, “A week [after the speech] the *Vicksburg Weekly Whig* went even further: ‘Webster’s speeches seem to be made not for a day only, but for all time: and they will be read and studied in future generations as the orations of Grecian and Roman orators now are’” (232). The reference to Grecian and Roman orators was not without cause, as even Webster ended his speech with a classical allusion, arguing, “we realize on a mighty scale, the beautiful description of the ornamental edging of the buckler of Achilles” (Webster 289). The ripple effects of Webster’s oration were massive, not only within the Senate chamber but also within the larger American intellectual community. His oration not only inspired his fellow senators to join his support of the bill, but also incited outrage among those in the communities his speech critiqued and those impacted by the passage of the legislation. Eventually, the speech would become Webster’s own Achilles heel and his political

influence would suffer among his constituents, resulting in him failing to obtain the nomination for the Whig presidency.

III. Ralph Waldo Emerson Responds With Sentiment

With widespread access to the “Seventh of March” speech, thinkers of the American Renaissance who were once supporters of Webster were faced with its ideological implications. While Webster attempts to separate himself from the law he advocates on behalf of, the authors of the American Renaissance could not remove him, either linguistically or morally, from the Compromise of 1850 and the Fugitive Slave Law. No author grappled with the downfall of Webster more than Ralph Waldo Emerson. Geoffrey Kirsch, in “‘So Much a Piece of Nature’: Emerson, Webster, and the Transcendental Constitution,” reviews Emerson’s long fascination with Daniel Webster. Emerson, who began writing in praise of Webster in his journals at the age of sixteen, would eventually lament in his private journal upon Webster’s death in 1852 that “America and the world had lost the completest man” (Kirsch 625). Prior to the “Seventh of March” speech, Emerson had in his journals considered Webster to be “America’s Adam” and “the representative of the American Constitution” (625). Emerson viewed Webster as the Constitution “made flesh,” with a “sepulchral voice,” a “spirit of flexed determination,” and “the finest character” (630). Len Gougeon, author of *Virtue’s Hero: Emerson, Antislavery, and Reform*, argues that Emerson had faith in the capacity of the political process and the ballot box to “make the law of the heart the law of the land also” (327). Emerson had believed that Webster could embody the balance of “natural law,” the law of the heart, with positive law, the United States Constitution or the “law of the land.” Emerson believed that Webster could yield this balance of natural and positive law to propagate social change. As Kirsch explains further, Emerson felt that “the mere existence of laws sanctioning slavery in America, including clauses

in the Constitution itself, consequently severed positive and natural law” (Kirsch 635).

Therefore, Emerson would view the example of the British emancipation of slaves as “a ‘moral revolution’ accomplished by act of Parliament,” which shows how “Emerson endorse[d] the efficacy of positive law as a means to moral ends” (637).

With the “Seventh of March” speech, Emerson’s long-time hero had forsaken the “higher law” and deferred entirely to the positive law of the Constitution, which eventually led to Emerson’s “Address to the Citizens of Concord on the Fugitive Slave Law” in 1851. Beyond Emerson’s private writings on the speech in his journals, his public condemnation of Webster and the Compromise of 1850 came on May 3, 1851, where he took significant issue with Webster’s positive interpretation of the law. The Middlesex Anti-slavery Society held its annual meeting at Concord on April 3, 1851, and asked Emerson to prepare a speech. Concord had a reputation for being a safe haven for runaway slaves, which meant that most of Emerson’s audience would have sympathies against the Fugitive Slave Law (Gougeon 143). Emerson’s initial reaction may have been muted because he was under the assumption that, like the first slave law, this law would be met with such Northern resistance that it would not be enforced in New England or outside of the South (143). However, Emerson would deliver this speech just weeks after a young fugitive slave named Thomas Sims was captured in Boston and returned to slavery, demonstrating that the Fugitive Slave Law would be upheld and enacted in the North, which influenced Emerson’s impassioned response. Emerson begins his speech with the following poem:

The ETERNAL Rights,

Victors over daily wrongs:

Awful victors, they misguide

Whom they will destroy,
 And their coming triumph hide...
 Speak it firmly, these are gods,
 Are all ghosts beside. (para. 1)

The invocation at the beginning asserts “Eternal Rights” as “gods” and these “gods” eventually destroyed Webster. The eternal rights that Emerson constructs rely on his idea of heightened individualism, where one’s personal constitution emerges as the higher law over political constitutions. As much as Webster worked in his speech to condemn reading the law in the light of morality, Emerson argues that political law must work with a “higher law.” He argues that a “wicked law cannot be executed by good men, and must be bad” (para. 4). Gougeon writes, “Emerson argues strongly against the validity of the law by asserting that it is ‘contravened’ by ‘the sentiment of duty.’ ‘An immoral law makes it a man’s duty to break it, at every hazard’” (162). It is this sentiment of duty that motivated Emerson to speak on behalf of the Anti-slavery society and frame his discussion of Webster’s speech. Emerson even critiques Webster’s pleas for “the Preservation of the Union” through the lens of the sentiment of duty, as the preservation is rendered useless: “as soon as the constitution ordains an immoral law, it ordains disunion. The law is suicidal and cannot be obeyed. The Union is at end as soon as an immoral law is enacted” (30).

Emerson’s intense emotional response to Webster’s “suppression” comes from his view of Webster as the potential bridge between the higher law of the individual “constitution” and the positive law of the national Constitution. Emerson’s view of Webster as the embodiment of the Constitution itself allows him to make larger critiques of the dialogue between natural law and the positive law of the American’s legislature. Emerson argues that “No engagement (to a

sovereign) can oblige or even authorize a man to violate the laws of Nature” (para. 16). Unlike Webster, who views the “laws of Nature” to be of physical environment, Emerson views the laws of nature to be those of self-reliance and moral sentiment. Emerson views Webster’s rhetorical move to separate the inhumanity of slavery from the Constitution as impossible, as nothing can force a man to violate “the laws of Nature,” or the fundamental ownership that one has to his own body. Emerson submits, “It is contrary to the primal sentiment of duty, and therefore all men that are born are, in proportion to their power of thought and their moral sensibility, found to be the natural enemies of this law” (para. 12). Webster’s speech reaffirmed the positive reading of the Constitution and removed the moral sentiments, which in turn disallows any moral progress to be made through political legislation.

On top of condemning legislation that works solely through positivist readings of the Constitution, Emerson then attacks “American Adam” Webster as personally failing to uphold the prophecy that Emerson set out for him. As Kirsch explains, for Emerson,

Webster’s moral failure mirrored that of the Constitution in its concessions to slavery, which ultimately not only sundered the political Union but also severed positive from natural law. Both Webster and the Constitution could only be redeemed in Emerson’s eyes through the antinomian violence of John Brown and the fiery trial of the Civil War, which at last made it possible to write the moral statute into the Constitution, & give the written only a moral interpretation. (626)

The “moral failure” of Webster appears in the 1851 “Address,” as Emerson laments, “I think a tragic poet will know how to make it a lesson for all ages. Mr. Webster’s measure was, he told us, final. It was a pacification, it was a suppression, a measure of conciliation and adjustment” (para. 24). “Webster’s ‘constitution’ is weak precisely because he has no moral sentiment, only a

purely positivist reverence for the already written US Constitution,” as evidenced by his speech’s critique of any Northerner who believes he/she/they have the rights to “endeavor to get round this Constitution” (Kirsch 642). Emerson argues that the national Constitution “is contravened by the written laws themselves, because the sentiments, of course, write the statutes. Laws are merely declaratory of the natural sentiments of mankind, and the language of all permanent laws will be in contradiction to any immoral enactment. And thus it happens here: Statute fights against Statute” (para 20). Emerson argues that sentiments are what drive the creation of the law, rather than property or doctrines, and that laws are “merely declaratory of the natural sentiments of mankind.” To Emerson, laws are not fixed doctrines but rather malleable reflections of the moral sentiments of the people. Laws should be the positive affirmation of the morals of the citizens. He argues that moral sentiments are statutes in and of themselves and, in order to change the legislation surrounding slavery, moral sentiment has to guide legislature. Therefore, Emerson still maintains hope that the positive law can work in harmony with the “natural sentiments of mankind” to create statutes that can be used to fight immoral statutes. As much as Emerson moves away from strict positive interpretations of the Constitution, he still upholds the entity as a doctrine that can be transcendental and yield moralistic progression but only when combined with sympathy and intrinsic sentiment. While Webster’s speech was about the preservation of the Union through economics and the sacrifice of morals for Constitutional dogma, Emerson rebuts his rhetoric. Emerson’s “Address” becomes a lesson in how to preserve the union, at the cost of the “American Adam,” by combining the higher law of individualism with the positive law of the Constitution.

Following the “Address to the Citizens of Concord on the Fugitive Slave Law,” Emerson continued to protest both Webster and his Fugitive Slave Law through his personal writings and

public speeches. On the fourth anniversary of Webster's speech, Emerson took the lectern again to memorialize the speech and call again for repeal of the Fugitive Slave Law and, through his lecture, call for reform on the understanding of the law itself. Emerson read his "Lecture on the Fugitive Slave Law" in New York City on March 7, 1854, and once again began by attacking Webster. Emerson first establishes Webster as a representative of both the Fugitive Slave Law and the problems within the law by re-affirming Webster's position as the "American Adam":

His countenance, his figure, and his manners were all in so grand a style, that he was, without effort, as superior to his most eminent rivals as they were to the humblest; so that his arrival in any place was an event which drew crowds of people, who went to satisfy their eyes, and could not see him enough. I think they looked at him as the representative of the American Continent. He was there in his Adamitic capacity, as if he alone of all men did not disappoint the eye and the ear, but was a fit figure in the landscape. (para 5)

Emerson calls him the "representative of the American Continent" and, while delivering a speech on Webster, evokes Webster's eloquence and fame to almost establish his own ethos by mirroring Webster's rhetorical success. Emerson sublimates Webster into a monument, a statue of the statute, when he reflects on Webster's earlier speeches: "I remember his appearance at Bunker's Hill. There was the Monument, and here was Webster" (para 6). Emerson begins his speech with these moments to establish Webster's history and to set the foundation for his later critique of Webster's moral abdication. From the beginning, Emerson both admires and warns against the power of Webster and the American identity that Webster represents, one that betrays moral sentiment for political power. He shows how eloquence can be wielded as a weapon and should be a weapon for the law rather than the source and determining factor for the law itself.

Emerson argues that the law does not have to work backwards but can be used to advance legal change that mirrors social reform; however, this move only works when moral sentiment drives the statute rather than strict interpretation of case law and previous statutes. In his speech, Emerson says, “Four years ago to-night, on one of those high critical moments in history when great issues are determined, when the powers of right and wrong are mustered for conflict, and it lies with one man to give a casting vote, -- Mr. Webster, most unexpectedly, threw his whole weight on the side of Slavery, and caused by his personal and official authority the passage of the Fugitive Slave Bill” (para. 9). Besides once again semantically linking Webster with the Bill by claiming that he passed the Bill through singlehandedly throwing his weight and “personal and official authority” behind it, Emerson also shows how Webster chose incorrectly when faced with a choice between the powers of “right and wrong.” “Right and wrong” suggests that the decision that Webster had to make was not one of legality but of morality—of “right and wrong” rather than “legal or illegal.” Here, Emerson begins to switch his argument from laws being passed because of their adherence to statutes and the Constitution to laws being passed based on a moral sense of “right and wrong.” Later in his speech, Emerson condemns Webster’s use relying solely on case law and doctrine in order to vouch for his support of the Bill. In this long section, Emerson lists how deferential decisions, that is, decisions that deferring back to the letter of the law rather than moral sense, have caused those who believed that the law would be overturned through legal measures to fail to act to stop the legislation. Emerson argues,

You relied on the constitution. It has not the word *slave* in it; and very good argument has shown that it would not warrant the crimes that are done under it; that, with provisions so vague for an object not named, and which could not be availed of to claim a barrel of sugar or a barrel of corn, the robbing of a man and of all his posterity is effected. You

relied on the Supreme Court. The law was right, excellent law for the lambs. But what if unhappily the judges were chosen from the wolves, and give to all the law a wolfish interpretation? You relied on the Missouri Compromise. That is ridden over. You relied on State sovereignty in the Free States to protect their citizens. They are driven with contempt out of the courts and out of the territory of the Slave States,—if they are so happy as to get out with their lives, —and now you relied on these dismal guaranties infamously made in 1850; and, before the body of Webster is yet crumbled, it is found that they have crumbled. This eternal monument of his fame and of the Union is rotten in four years. They are no guaranty to the free states. They are a guaranty to the slave states that, as they have hitherto met with no repulse, they shall meet with none. (para 25)

Through Emerson's repeated use of the phrase "you relied," he shows how Webster repeatedly defers to the legislature and legal measures to avoid making moral progressive claims. Each of the statutes that Emerson lists in the above quotation are doctrines that were either overridden through other statutes or failed to stop slavery. He argues that legislation alone cannot protect citizens from being forced to act against their morality and that something, in this case the moral sentiment, must move positive law to create statutes that create new precedents. His claim here, besides furiously condemning his own compatriots for trusting in the institution that also actively supports and upholds slavery, is that the institutions that are supposed to advance the law – the Supreme Court, the Constitution, politicians like Webster – have actively worked to keep the law stagnate and fixed. As much as Emerson believes that "statute fights against statute" and that the law must right itself, he also argues that the law must not be simply building upon case law and the institution. Emerson critiques Webster's inability to see how laws are evolutionary, while Webster views the law as remaining utterly deferential to precedent.

Even before his speeches on the Fugitive Slave Law, Emerson focused on contemporary progressivism in his 1836 book *Nature*, which opens as follows: “Our age is retrospective. It builds the sepulchers of the fathers. It writes biographies, histories, and criticism. The foregoing generations beheld God and nature face to face; we through their eyes.... There are new lands, new men, new thoughts. Let us demand our own work and laws and worship” (27). Emerson highlights how his age – the antebellum period – looks backwards and rather than being self-reliant and experiencing nature “face to face,” his age defers to what past ages have said. Emerson critiques his age for building monuments to the past, which, I argue, was how Webster was able to use the doctrines as the foundation of his argument. Verbally, he established the Constitution and Missouri Compromise as monuments that were fixed, rather than evolving statutes. Webster, as exemplified in his speech, sees “through [the] eyes” of history and past doctrines rather than existing through the present world. Emerson argues that America must be more than the past, relying on entrusted doctrines and institutions like “state sovereignty,” “the Missouri Compromise,” and the “Supreme Court.” He instead argues that Americans must depend upon their own sight and insight in order to create their “own work and laws and worship.” How does this translate to the Fugitive Slave Law? Even through his use of “eyes” within *Nature*, Emerson shows how his new interpretation of the law depends upon the senses and his own feelings. Language of feeling and the senses permeate his 1854 speech. As a result, Emerson suggests that the source of the law has to come from another place besides the Constitution, case laws, judges, and statutes: namely, the moral sentiment.

Emerson shows how the only way to advance the law must come from moral sensibility and embracing the fight of “right and wrong” rather than close reading and interpreting statutes and the Constitution. In his speech, Emerson argues, “It is a law of our nature that great thoughts

come from the heart. If [Webster's] moral sensibility had been proportioned to the force of his understanding, what limits could have been set to his genius and beneficent power? But he wanted that deep source of inspiration" (para 8). With all his eloquence and legal prowess, what Webster lacked, according to Emerson, was the moral sentiment. Gougeon writes, "Emerson stresses here the absolute need in a cultured and civilized society for recognition of and belief in the efficacy of the spirit. Without this vital ingredient even an affluent and seemingly prosperous society remains essentially barbarous" (193). Emerson argues that the "vital ingredient" actually constructs the "law of our nature," a law that relies on the "higher law" of sympathy. Emerson argues that the moral sentiment can be enacted by a lawyer and a statesman, and he cites a number of instances of those who have done so:

Here was a question of an immoral law; a question agitated for the ages, and settled always in the same way by every great jurist, that an immoral law cannot be valid.

Cicero, Groitius, Coke, Blackstone, Burlamaqui, Vattel, Burke, Jefferson, do all affirm this, and I cite them, not that they can give evidence to what is indisputable, but because, though lawyers and practical statesmen, the habit of their profession did not hide from them that this truth was the foundation of States (para. 14).

Emerson alludes to these figures as examples of how a "profession" did not exclude these Statesmen from acting with the moral sentiment and fighting against a statute that was "immoral." Emerson invokes social contract theory, which Webster uses as fundamental within his "Seventh of March" speech, and argues that since the Fugitive Slave Law is immoral, it cannot be a valid case law; however, the only way to determine the doctrine's morality is through the moral sentiment. Moral sentiment, according to Emerson, comes from nature and therefore must be the higher law to man's law.

As much as Emerson's speech helped to bolster the confidences of his audience and pamphlet readers, Emerson's lessons about using the higher law to create laws still existed within a lofty and intellectually realm. Emerson's lectures were delivered in front of abolitionists and an audience who, most likely, had already assumed the immorality of the Fugitive Slave Law. His audience needed a background in Webster's speech for his rhetoric to be effectively understood, which means that his audience would have been relatively educated. Emerson's oratory genre fights the Fugitive Slave Law within the same rhetorical and semantic mode as Webster. He fought Webster by working to redefine the law within the same terms that Webster used in his "Seventh of March" speech. Emerson's lectures focus more on the intellectual and moral failings of Webster's interpretation of the law while gesturing towards a new way of defining legislation through moral sentiment. However, Emerson does not operationalize how to use the moral sentiment in influencing positive law. His points are compelling, but they fail to show the average citizen how he/she could influence positive law and rather targets lawmakers and citizens influential in lawmaking. This rhetorical mode, as a result, helps show the flaws in Webster's argument and provides a theoretical concept for revolutionizing the legal system in a way that could end slavery; however, Emerson does not give a sufficient apparatus to implement these legal changes.

IV. Harriet Beecher Stowe Gives the Moral Sentiment a Widespread Appeal

Emerson's lessons, however, would in fact become actualized in Harriet Beecher Stowe's 1852 novel, *Uncle Tom's Cabin*. To understand the connection between these two works, I have to refer back to Emerson's 1851 "Address to the Citizens of Concord on the Fugitive Slave Law." Within this speech, Emerson poses a question to his audience in order to show how the law cannot be upheld by the same citizens that worked to pass the statute. Emerson argues:

It is contravened by all the sentiments. How can a law be enforced that fines pity, and imprisons charity? As long as men have bowels, they will disobey. You know that the Act of Congress of September 18, 1850, is a law which every one of you will break on the earliest occasion. There is not a manly Whig, or a manly democrat, of whom, if a slave were hidden in one of their houses from the hounds, we should not ask with confidence to lend his wagon in aid of his escape, and he would lend it. The man would be too strong for partisan. (para. 18)

Emerson's argument that anyone would help a fugitive slave that arrived at their house stems from his claim that "as long as men have bowels, they will disobey" the law. He argues not from an intellectual position, but from one that connects so fundamentally to a person's body that one cannot separate his somatic responses to the law. He argues that no one, regardless of partisanship, could deny helping a human that arrived on his or her doorstep for help.

The situation that Emerson poses of a slave "hidden in one of their houses from the hounds" becomes actualized in *Uncle Tom's Cabin* when Eliza Harris, a fugitive slave, and her son arrive at the home of Senator Bird. Senator Bird, who upholds the law intellectually, cannot help but aid Eliza and break his own legislation. In the conversation between Mrs. Bird and her husband prior to Eliza and Harry's arrival, Senator Bird says that he cannot act "in cases where [his] doing so would involve a great public evil" (107). However, Mrs. Bird retorts with, "O, nonsense, John! you can talk all night, but you wouldn't do it. I put it to you, John,—would *you* now turn away a poor, shivering, hungry creature from your door, because he was a runaway? *Would* you, now?" (107). Stowe creates the same situation as does Emerson, but fictionalizes it so that instead of being asked the rhetorical question through a lecture, she asks the question through a dual lens of literature and rhetoric. By asking "*Would* you, now?," Stowe frames it as a

question of character, but through her use of “you” Stowe also asks her readers to imagine themselves in the place of Senator Bird. In creating a melodramatic version of Emerson’s scenario, Stowe actualizes Emerson’s claim that the law of the heart is a higher law than the law of the land. Through her work, her audience does not passively read the scenario but *feels* it and cannot, therefore, escape from feeling the consequences of the law.

Before looking more closely at how Stowe actualizes Emerson’s argument about the moral sentiment by bridging law and literature in *Uncle Tom’s Cabin*, this section looks at how Stowe’s background reveals not only her connection to the Emersonian idea of the “higher law” but also her own biographical connection to Daniel Webster. *Uncle Tom’s Cabin* was published in 1852 as a direct response to and rebuttal of the Fugitive Slave Law. In it, Stowe creates Southerners, Northerners, fugitive slaves, and fictionalizes the people that Emerson abstractly references as being impacted by the Fugitive Slave Law in his speeches. While Emerson highlights the situation of a fugitive slave arriving at a person’s door, Stowe forces her readers to remove the distance between their Northern lives and the Southern slave trade and imagine themselves in the situation of the Birds. In *Mightier than the Sword: Uncle Tom’s Cabin and the Battle for America*, David Reynolds describes how Stowe was no novice to social reform, since she grew up in a prominent religious family that taught against Calvinist orthodoxy. Her father, Lyman Beecher, was a Presbyterian pastor and the Stowe family manifested “the Puritan zeal for reform,” as “Lyman Beecher was one of the founders of the so-called Benevolent Empire – the national network of reform groups dedicated to promoting temperance, missions, Sunday schools, tracts, and Bibles” (16). Rather than craft her rebellion to the Fugitive Slave Laws strictly through discussions of legislation and public life, Stowe puts “home and the family at the center of life” in her novel (48), as she uses the private, domestic sphere to show how the public

sphere fails to uphold the higher law of the heart. Reynolds argues, “Stowe was the leading popularizer of higher law – held by those who looked beyond the Constitution or the Fugitive Slave Law to the law of natural justice, supported by God and morality – which its advocates considered more sacred than any human statute” (125). Here, similar to Emerson, Stowe believed in a “law of natural justice, supported by God and morality,” a law of nature that supersedes Webster’s positive law and interpretations based on property.

Stowe’s personal writings and private life show that she too was not only influenced by the Fugitive Slave Law when writing *Uncle Tom’s Cabin* but also by Daniel Webster’s personal actions in passing the legislation. Stowe frames the debate around American slavery as “an unfolding drama with defenders of the higher law as heroes and its opponents as villains. Chief among the latter, in her eyes, was Daniel Webster. She was among several prominent Northerners who were appalled when Webster capitulated to the proslavery side by putting his famous eloquence at the service of the Fugitive Slave Law” (Reynolds 126). Stowe frames the debate, much like her framing of her own novel, around “heroes” and “villains.” Furthermore, “Stowe wrote that when Webster endorsed the fugitive bill he ‘moved over to the side of evil! It was as if a great constellation had changed sides in the heavens, drawing after it a third part of the stars.’ Many Americans, she notes, temporarily heed ‘the serpent voice with which he scoffed at the idea that there was a law of God higher than any law of the constitution” (126). Stowe views Webster’s action as immoral, as he “moved over to the side of evil,” or away from moral heroes that defend the higher law. In championing the Fugitive Slave law, Webster listened to his “serpent voice” and followed an evil path. Stowe’s language echoes Emerson’s reference of Webster as the “American Adam.” Just as Adam fell from grace by being tempted

by the serpent, Webster gives into the temptation of his “serpent voice” and rejected the notion that there could be a law that was higher than the law of the Constitution.

This heavily Christian reading of Webster’s action also appears in another famous response to the Fugitive Slave Law, that of Stowe’s brother, Charles Beecher, in *The Duty of Disobedience to Wicked Laws: A Sermon On the Fugitive Slave Law*. Beecher grounds the speech in religion with biblical allusions and Christians breaking laws in Rome and argues that “Those [Roman] laws were not half so bad as this law of an American Congress, yet Christ broke them without scruple” (17). In 1851, he wrote, “You remember the speech of Mr. Webster on the 7th of March 1850, - a day set apart for the blessed Martyrs, Saints Perpetua and Felicitas. We all know who was the author of that law. It is Mr. Webster’s Fugitive Slave Law!” (2). Like Stowe, Beecher argues that the Fugitive Slave Law must be broken by Christians, just as Christ would break immoral laws, and that Webster morally tied himself to the law as its “author.” Beecher goes on to say, “I know men in America have looked so long at political economy that they have forgotten political morality, and seem to think politics only national housekeeping, and he the best ruler who buys cheapest and sells dearest” (Beecher 21). Beecher critiques Webster and other statesmen for privileging short-term fixes that work exclusively with regard to “political economy,” like Webster’s reliance on property and physical land as the foundation for political decisions, and, like Emerson, he argues that the “best rulers” instead must think about “political morality.” Stowe, in writing a sentimental novel that focuses exclusively on political morality, fictionalizes the leaders that Emerson and her brother discuss.

Through the scene with Senator and Mrs. Bird, Stowe shows the superiority of the higher law by separating the law into public and private spheres, aligning the private sphere with the higher law, and having the characters ultimately act in accordance with their private feelings.

Mrs. Bird asks her husband, ““And what is the law? It don’t forbid us to shelter those poor creatures a night, does it, and to give ’em something comfortable to eat, and a few old clothes, and send them quietly about their business?”” (106). Mrs. Bird’s framing of the question “what is the law” works to deconstruct notions of positive law in order to suggest that a law that forbids someone to help “poor creatures” cannot be a law that should be upheld by private citizens. Her small linguistic gesture of referring to fugitives as “poor creatures” rather than slaves further removes the stigma against the fugitives and generates more compassion. Rather than demonizing the Senator for his support of enforcing the law, Stowe characterizes him as follows: “Now, if the truth must be told, our senator had the misfortune to be a man who had a particularly humane and accessible nature, and turning away anybody that was in trouble never had been his forte” (108). While Emerson, and even Stowe in her personal journals, craft Webster as evil and immoral, she presents a politician in her novel that is “particularly humane” with an “accessible nature,” which makes him sympathetic to the reader rather than alienating him as a monstrous statesman. The chapter even forefronts this idea with its title: “In Which It Appears That a Senator Is But a Man” (104). She shows that, when faced with the choice to help or turn Eliza in, Bird reveals that he is “but a man.” His moral sentiment trumps his previous orations. Just as Stowe builds compassion in her depictions of the slaves, she also treats the senator with compassion as well, which makes his help of Eliza more admirable.

Stowe provides an apparatus for understanding sympathy through body language and guiding others to understand how the moral sentiment influences their decision making through the characters of Mr. and Mrs. Bird. This central argument appears during the conversation that occurs between the two characters before Eliza and Harry arrive. This conversation occurs within

their domestic sphere where they foreshadow a fugitive's arrival at their door. Stowe mirrors the same scenario as Emerson does in his "Address" at Concord, when she writes:

"You ought to be ashamed, John! Poor, homeless, houseless creatures! It's a shameful, wicked, abominable law, and I'll break it, for one, the first time I get a chance; and I hope I shall have a chance, I do! Things have got to a pretty pass, if a woman can't give a warm supper and a bed to poor, starving creatures, just because they are slaves, and have been abused and oppressed all their lives, poor things!"

"But, Mary, just listen to me. Your feelings are all quite right, dear, and interesting, and I love you for them; but, then, dear, we mustn't suffer our feelings to run away with our judgment; you must consider it's a matter of private feeling,—there are great public interests involved,—there is such a state of public agitation rising, that we must put aside our private feelings." (107)

Stowe outlines the central tension of the text by having John, a senator, view the law only in terms of positive law and strict interpretation. Mrs. Bird does not read the law but rather *feels* the law and acts upon her feelings. Initially, John critiques her behavior by telling her that while her "feelings are all quite right," they "mustn't suffer" their feelings to "run away with our judgment." He acknowledges a separation between "public interests" and "private feelings" and lands on the side of the former. Mrs. Bird embraces her feelings and argues that her sentiment comes from her understanding of morality through the Bible. However, I would argue that Stowe's construction of the higher law, while reliant upon Christianity as the guidance for the higher law, is not an inherently Christian argument. There must be a higher law, a moral guide, which can come from religion, in the case of Stowe, or natural individualism and self-reliance in the case of Emerson. John Bird, who exists in both the public and private spheres, must decide

which one to follow while Mrs. Bird, without a public persona, can only preach the higher law. As limiting as her position is within her home, Stowe gives Mrs. Bird the ability to represent the higher law and evangelize her husband by providing the language and space for him to give into his feelings. When Eliza and Harry suddenly arrive on their doorstep, Senator Bird needs to make a choice and he actively chooses his moral sentiment over the strict interpretation of the law, since “whether the law actually works toward the goal of creating a just society crucially depends, for Stowe, on its correspondence with the citizenry’s moral faith” (Crane 156). Therefore, Stowe models a properly sympathetic response so that her readers may choose to embrace their “moral faith” and, like Senator Bird, imagine how they would react in the situations presented in the novel.

Stowe’s argument that the law must be based on sympathy and feelings mirrors the prose and genre conventions of the sentimental novel. Rather than making her argument in the form of a lecture or sermon, Stowe uses the aesthetic of sentiment to deconstruct positive law and reconstruct the law through emotions and feeling. Stowe models sympathy by demonstrating physical symptoms of sympathy, providing multiple viewpoints throughout the text, and by humanizing fugitive slaves through naming and paralleling the slave’s lives with those of white characters. For example, Stowe writes, “On the present occasion, Mrs. Bird rose quickly, with very red cheeks, which quite improved her general appearance, and walked up to her husband, with quite a resolute air, and said, in a determined tone, ‘Now, John, I want to know if you think such a law as that is right and Christian’” (106 - 107). In this scene, Stowe makes sympathy physical through Mrs. Bird’s cheeks and the description of her body. Stowe not only provides critiques of the law, but through her description of Mrs. Bird’s physical symptoms also displays sympathy’s workings on the body. As Mrs. Bird “rose quickly” and her cheeks turn “very red,”

Stowe educates her readers on how to read sympathy in the body of another person. Mrs. Bird, flustered and upset with her husband's lack of response, challenges him to answer whether or not the law is "right and Christian." She, like Emerson, does not care about the law's legality or basis, but rather holds the law up to the higher law, in Stowe's case a Christian authority, by asking if it is "right and Christian." Reynolds writes, "[*Uncle Tom's Cabin*] offered a religion of love to all – blacks and whites, the enslaved and the free, the poor and the rich, children as well as adult. This democratic redefinition of Christianity was groundbreaking in a time when most mainstream American churches either tolerated slavery or, in the South, actively supported it" (12). While Webster idealized the doctrines of American legal tradition as scripture above religious texts and placed himself at the center of the American civil tradition, Stowe hoped to use Christianity to moralize the civil religion. She agrees with Webster's argument that churches have supported slavery, but disagrees that these churches represent the higher law.

Stowe then crafts sympathy by thematically paralleling the white characters with the fugitive slaves. Eliza asks Mrs. Bird, when seeking help at the Bird's home, "'Ma'am," she said, suddenly, 'have you ever lost a child?'" Stowe writes, "The question was unexpected, and it was thrust on a new wound; for it was only a month since a darling child of the family had been laid in the grave" (112). Eliza had lost two children and refused to let her last living child be sold away from her, while Mrs. Bird's son Henry had died two months prior, forcing a deep connection on a human level and further crafting sympathy. The two children, Henry and Harry, even have parallel names, which Stowe uses to create an emotional bridge between her characters and help both Mrs. Bird and the white readers she represents to connect with slaves in a way beyond rhetoric. Brook Thomas, author of *Cross Examinations of Law and Literature*, writes, "In her preface [Stowe] writes, 'The object of these sketches is to awaken sympathy and

feeling for the African race, as they exist among us; to show their wrongs and sorrows, under a system so necessarily cruel and unjust as to defeat and do away the good effects of all that can be attempted for them, by their friends, under it” (Thomas 113). The term “fugitive” only appears four times and “slave” appears thirty eight times, while “Eliza” appears one hundred and sixty one times. The simple inclusion of Eliza’s Christian name helps to humanize the terms “slave” and “fugitive” that are used abstractly and intellectually within the speeches of Webster and Emerson. By providing the perspective of a fugitive slave and humanizing Tom and Eliza by paralleling their experiences with those of white characters, Stowe systematically attacks Webster’s argument that the law must be reliant upon notions of property and statute.

Stowe, by featuring a senator faced with having to violate his own law, critiques the law for forcing moral men to act immorally in order to uphold statutes because of their professions. Thomas writes, “If Stowe feels ‘deep respect for the man,’ that respect makes her feel even more ‘horror for the system.’ One of the worst crimes of slavery is that ‘like Judge Ruffin, men of honor, men of humanity, men of kindest and gentlest feelings, are obliged to interpret these severe laws with inflexible severity’” (119). Stowe’s problem with the law was that men of respect and morals *had* to interpret the laws in immoral ways because of the constraints of the judicial argument. Moreover, Stowe’s distress at the law further reveals how the law must be inherently deferential and justices, when ruling, must defer to laws rather than create new laws that conflict with previous rulings (unless a judge takes part in re-interpreting the law, which only comes from ambiguity rather than something as clear as the Fugitive Slave Law and a fugitive slave). Stowe’s distress at the law parallels a critique of the Fugitive Slave Law by Henry David Thoreau in his essay, “Slavery in Massachusetts.” Thoreau writes, “The judge may decide this way or that; it is a kind of accident, at best. It is evident that he is not a competent

authority in so important a case. It is no time, then, to be judging according to his precedents, but to establish a precedent for the future. I would much rather trust to the sentiment of the people” (251 – 252). Thoreau critiques a legal system with justices who, rather than ruling based on the sentiments of the populous, keeps ruling according to his precedents. Stowe and Thoreau both argue for the law to become something that can “establish a precedent for future” and pave the way for new legislation that, may contradict previous laws, but are in alignment with the people’s moral sentiment.

As Webster relied on the physical environment in his understanding of “nature,” Stowe re-defines nature to align with the moral sentiment and argues that a person’s “state of nature” is sympathy. In her characterization of Senator Bird, Stowe writes, “Our good senator in his native state had not been exceeded by any of his brethren at Washington, in the sort of eloquence which has won for them immortal renown! How sublimely he had sat with his hands in his pockets, and scouted all sentimental weakness of those who would put the welfare of a few miserable fugitives before great state interests!” (118). As Webster exemplifies in his speech, political law and legislation does not inherently hold morality; in fact, an orator can explicitly work to separate the law from the morality that it endorses. Stowe depicts how the senator, with his eloquence, separated himself from morality. The “patriotic senator” who “had been all the week before spurring up the legislature of his native state to pass more stringent resolutions against escaping fugitives” now had to act upon his “native state,” a state which Stowe argues as being inherently moral and kind natured. Stowe reveals here that the Fugitive Slave Law and acting based on positive law alone counters the senator’s “native state” and in order to act morally he must think with heart rather than his head.

Stowe eventually argues that law must come from the heart rather than the head and that embracing one's feelings leads to making decisions that are in line with the higher law. Mrs. Bird tells her husband, when faced with the choice between upholding his duty and enforcing the law he helped propagate or helping a fellow human in need, "Your heart is better than your head, in this case, John" (116). She argues that, when it comes to slavery and laws of morality, lawmakers must leverage feelings and emotions rather than the strict interpretation and reasoning of the law. This argument makes the law inherently individual and subjective. By privileging feelings and sympathy, Stowe makes the law accessible to everyone, since anyone could embrace their feelings to uphold or denounce the law. Stowe becomes the perfect intersection of the writers of the American Renaissance. She not only targets statesmen and lawmakers through her representation of Senator Bird, but also private citizens through the novel's sentimental genre. She encouraged women to use domesticity to cultivate their husbands' morality and move them towards acting in alignment with the higher law. Emerson himself acknowledges this sentiment when he writes in his Winter 1852-1853 journal, "It is the distinction of 'Uncle Tom's Cabin,' that, it is read equally in the parlour & the kitchen & the nursery of every house. What the lady read in the drawing-room in a few hours, is retailed to her in her kitchen by the cook & the chambermaid, as, week by week, they master one scene & character after another" (Emerson 522). Emerson praises the novel for its ability to penetrate the domestic sphere in a manner that his lectures and speeches had been unable to do through sheer intellectualism. Through art, Stowe was able to generate sentiment and move people to feel the consequences of their actions, which in turn forces her readers to act in alignment with the teachings of Emerson that she actualizes through *Uncle Tom's Cabin*. The ending of the novel calls women to action as Stowe "tells her female readers that, even confined to a domestic sphere and denied legal means to

effect political change, they can, like Mrs. Bird, do something about slavery by influencing their husbands” (Thomas 125).

Stowe most clearly constructs the law around feeling in the final chapter of the novel, “Concluding Remarks,” wherein she writes in direct first person as herself (rather than a narrator) and explicitly calls her readers to action. Stowe writes:

But, what can any individual do? Of that, every individual can judge. There is one thing that every individual can do,—they can see to it that they feel right. An atmosphere of sympathetic influence encircles every human being; and the man or woman who feels strongly, healthily and justly, on the great interests of humanity, is a constant benefactor to the human race. See, then, to your sympathies in this matter! Are they in harmony with the sympathies of Christ? or are they swayed and perverted by the sophistries of worldly policy? (579)

The biggest piece of Stowe’s argument about how an individual can “judge,” a term with dual religious and legal connotations, relies on doing what “feel[s] right” and acting with “sympathetic influence.” She inspires her reader to “see to your sympathies in this matter,” which reinforces the individual and showcases individualism as the apparatus that can influence the nation’s lawmakers. She asks her readers to reflect inward and, since Emerson argues that insight can inspire new laws, she too works with self-reflection and introspection as the founding unit for higher law. Since Mrs. Bird emerges victorious in the internal conflict within the Senator, Stowe affirms that the higher law exists within the domestic sphere and sympathy. By privileging feelings and sentiment over the Senator’s reason, Stowe supports violating the positive law in order to do what *feels right* and suggests that that action can change the positive law to become more aligned with the higher law. In his 1854 lecture, Emerson suggests that man

has “the instinct to love and help his brother” (para 22). Gougeon suggests that Emerson shows how “the ‘musts’ of life include not only the physical facts of appetite and the conservative desire for acquisition and protection, but also the instinct of love” (Gougeon 194). What Stowe creates through *Uncle Tom’s Cabin* is the feeling of “love,” and she forces her characters to act on their instincts to “help [one’s] brother.” Stowe and Emerson view their audience with kindness and project that, so long as their audience acts with feelings and in accordance to their moral sentiment, then the law can be just.

Stowe’s argument that feelings can be influential in shaping positive law and adhering to the higher law does not exist solely within the fictional setting of her novel. In fact, *Uncle Tom’s Cabin* had real consequences on politicians and lawmakers. As Thomas points out, Stowe’s dramatic portrayal of slave relations indicates how strongly she sensed the influence of sentiment as a regulatory force. What Stowe, a believer in sentiment, had to do in *Uncle Tom’s Cabin* was to appeal to the sentiment of her readership by showing that slavery was such an evil that even sentiment, with all its influence, could not control the inhumanity of southern slave law. At the same time, she had to reconfirm the power of sentiment to do something about that state of affairs. (116)

Gregg Crane, in “Stowe and the Law,” describes how Stowe’s sense of the power of literature to reshape public policy and law is expressed in an 1853 letter she wrote to Lord Denman, where, urging the English to take up literary cudgels against American slavery, she wrote, “In your reviews [,] in your literature, you can notice & hold up before the world, those awful facts, which but for you, they would scornfully go on denying as they have done” (157). As much as Webster exemplifies the politician acting without moral sympathies, Senator John Bingham in 1860 provides a counter example. Senator Bingham references *Uncle Tom’s Cabin* and moral

sentiment in his Senate speech against the Crittenden Compromise, which proposed a series of pro-slavery amendments. While ten years after Webster's "Seventh of March" speech, Bingham's speech demonstrates the power of Emerson and Stowe's campaigns for action based on moral sentiment. During the 1860 compromise debates, Bingham notes,

the amendment proposed . . . does not relieve the American people from the unjust obligations imposed upon them by the act of 1850, by which, at the beck of the marshal, they are compelled to join in the hunt – to make hue and cry on the track of a fugitive slave woman who is fleeing, with her babe lashed upon her breast, from the house of bondage. I will not perform that service, and I ask any man on that side whether he will?
(Crane 159)

Bingham uses the same language of Emerson and *Uncle Tom's Cabin* to defer to his own moral sympathy rather than the Fugitive Slave Law. As Crane continues, "given the fact that, in 1860, the Fugitive Slave Law was still the law of the land, Bingham's comments derive jurisprudential authority solely from the higher-law tradition that unjust laws do not merit obedience" (160). Through the example of Bingham, moral sympathy can impact positive law in order to create social reform when Statesmen decide on legislation based on the "higher law" rather than case law.

In the end, Webster unintentionally inspires the resurgence of higher law and morality through the law. It was only after Webster's speech that writers of the American Renaissance responded with deep feelings against Webster and were moved to act against his interpretations of the law. Stowe wrote in her personal letters that, after Webster's speech, "Back came the healthy blood, . . . the re-awakened pulses of moral feeling . . . and there were found voices on all

sides to speak for the right and hearts to respond” (Reynolds 126). Emerson also echoes being moved to act against the legislation when he *felt*. He opens his 1851 “Concord” speech with,

I never felt the check on my free speech and action, until, the other day, when Mr. Webster, by his personal influence, brought the Fugitive Slave Law on the country. I say Mr. Webster, for though the Bill was not his, it is yet notorious that he was the life and soul of it, that he gave it all he had: it cost him his life, and under the shadow of his great name inferior men sheltered themselves, threw their ballots for it and made the law.

(“Concord” para 3).

Even in his personal journal, during April – May of 1851, he writes, “We shall never feel well again until that detestable law is nullified in Massachusetts & until the Government is assured that once for all it cannot & shall not be executed here. All I have, and all I can do shall be given & done in opposition to the execution of the law” (518). Prior to the Fugitive Slave Law, Emerson had “depended on keeping the public sphere separate from the private”; however, he was moved by the speech and used his private sentiment to advocate for public reform (Thomas 75). All three of these examples show how the writers themselves could only act against the unjust law when they “felt” unwell and the law moved them into action by “moral feelings” against Webster and his Fugitive Slave Law. Before even writing on the moral sentiment, these authors lived it.

V. American Law and the Moral Sentiment

Based on the analysis of Webster, Emerson, and Stowe, I argue that, specifically with regard to slavery, American law inherently required lawmakers to act on their sympathy rather than strict interpretation of the law. Emerson provides the theoretical framework for how moral sentiment could revolutionize policymaking, while Stowe demonstrates through art how the

average person can make decisions based on sympathy and his/her moral sentiment. By teaching people how to emotionally read and respond based on sympathy within their private homes and, more fundamentally, within their private hearts, Stowe shows how the higher law of sympathy trumps the man-made laws of the Senate – even among those responsible for helping to write those laws. As a result, Stowe and Emerson suggest that American law requires statutes that intersect with moral sentiment in order to achieve social progress. Webster’s “Seventh of March” speech shows the flaws with relying entirely on positive law, as his reliance on positive law eventually broke the Union he spoke to preserve. Webster represents the failure of the American legal system that perpetuated slavery by acting entirely deferential and relying on previous statutes. Emerson and Stowe argue for morality in the law and for laws that derive from feeling. It was only when Americans read *Uncle Tom’s Cabin* that average citizens saw how the higher law could be used within their own homes and then applied in order for the law to change immoral legislation.

Stowe helped mobilize private citizens to defy and speak out against the Fugitive Slave Law through her subversive storytelling, an action which allowed Stowe to construct sympathy through fictional characters and situations that her readers could imagine and *feel*. Thomas writes, “the opposition between head and heart was reflected in the different disciplines of law and literature. Both, however, had the common purpose of unifying the country behind the lofty ideals of a national purpose (129). Law and literature remains an infinite loop that works with each other to propagate social change. Stowe’s use of the literary genre as the vehicle of her critique demonstrates the inherent connections between law and literature and how literature, as much if not more than oration and lectures, can help criticize legislation and suggest legal reform.

The connection between the law and literature even exists in Webster's speech itself and his contemporary legacy. For example, when Webster began his "Seventh of March" speech he echoed literature by mirroring Brutus and Marc Antony in Shakespeare's *Julius Caesar*. Instead of saying, "Romans, countrymen, and lovers! Hear me for my cause," or echoing Marc Antony's "yet hear me, countrymen. Yet, Hear me speak," Webster tells his audience, "I speak today for the preservation of the Union. 'hear me for my cause'" (Shakespeare 3.2.14-15, 3.2.234). In Webster's act of moral defiance and support of the Fugitive Slave Law, he still shows the inherent connection between law and literature and how both work together to define and redefine the law. Yet Webster's last words, "I still live!," would nevertheless prove prophetic as his "Seventh of March" speech still has lasting legal, and moral, influences (Kirsch 644). Unlike Senator Bird, Webster died before he was able to redeem himself morally. Even after his death he was continuously criticized for his moral fall. Webster lives in the cultural consciousness as the ideal lawyer whose name and likeness are called upon in times when the law needs to be critiqued. He emerges as a character designed to fight the Devil in Stephen Vincent Benét's 1936 short story "The Devil and Daniel Webster" and the *Netflix* original series *Chilling Adventures of Sabrina*. In both of these stories, Webster's character fights against the Devil to protect an average citizen, which almost allows Webster's legacy to be redeemed from his immoral support of the legislation that perpetuated slavery. His fictional legacy still upholds his position as the ideal orator and the traditional figure of the lawyer, while also trying to reconcile a moral past that abandoned sentiment for precedent.

Eventually, Webster does preserve the Union though not in the way that he hoped. His speech was the catalyst that mobilized Emerson and Stowe to advocate for the importance of moral suasion. It shows how the law can be used for social advancements but only when positive

law heeds way to higher law. It requires a moralizing aesthetic, like Emerson's lesson, but most importantly a sentimental aesthetic that forces readers to feel the consequences of their actions. Stowe's apparatus for teaching sympathy in the private sphere in order for it to be applied to the public sphere suggests that the higher law is accessible to everyone, not just those with extensive legal training. In fact, as the case of Mary and John Bird demonstrates, extensive legal training is more likely than not to cloud one's access to the higher law. The higher law still requires training to cultivate one's moral sentiment by reading Stowe's text to learn how to apply the lessons of sympathy. Overall, these texts advocate for a re-interpretation of American law that moves away from dogmatic readings of the founding doctrines and puts legislation into the hands of the people and the moral sentiment of the lawmakers, a move that is inherently democratic.

Works Cited

- Beecher, Charles, 1815-1900. *The Duty of Disobedience to Wicked Laws: A Sermon On the Fugitive Slave Law*. New York: J.A. Gray, printer, 1851.
- Bomboy, Scott. "Daniel Webster's unique Supreme Court legacy." *Constitution Daily, National constitution center*, January 18, 2020. <https://constitutioncenter.org/blog/daniel-websters-unique-supreme-court-legacy>
- Crane, Gregg. "Stowe and the Law." *The Cambridge Companion to Harriet Beecher Stowe*, edited by Cindy Weinstein, Cambridge University Press, Cambridge, 2004, pp. 154–170. Cambridge Companions to Literature.
- Emerson, Ralph Waldo, et al. *Emerson's Prose and Poetry : Authoritative Texts, Contexts, Criticism*. 1st ed., W.W. Norton, 2001.
- Gougeon, Len. *Virtue's Hero: Emerson, Antislavery, and Reform*. Univ of Georgia Pr. EBSCOhost, search.ebscohost.com/login.aspx?direct=true&AuthType=sso&db=rh&AN=ATLA0000130535&site=eds-live. Accessed 9 Dec. 2019.
- Kirsch, Geoffrey. "'So Much a Piece of Nature': Emerson, Webster, and the Transcendental Constitution." *New England Quarterly*, vol. 91, no. 4, Dec. 2018, pp. 625–650. EBSCOhost, doi:10.1162/tnq_a_00706.
- Matteson, John T. "Grave Discussions: The Image of the Sepulchre in Webster, Emerson, and Melville." *The New England Quarterly*, vol. 74, no. 3, 2001, pp. 419–446. JSTOR, www.jstor.org/stable/3185426.
- Reynolds, David S. *Mightier than the Sword: Uncle Tom's Cabin and the Battle for America*. Google books ed., W. W. Norton & Company, 2011.

Shakespeare, William. *Julius Caesar*. *The Norton Anthology*, edited by Stephen Greenblatt.

W.W. Norton & Company, 2016.

Smith, Craig R. *Daniel Webster and the Oratory of Civil Religion*. University of Missouri Press,

2005. *EBSCOhost*,

search.ebscohost.com/login.aspx?direct=true&AuthType=sso&db=cat00991a&AN=sth.o
cm61395479&site=eds-live.

Stowe, Harriet Beecher. *Uncle Tom's Cabin or, Life Among the Lowly*. Harvard University Press
ed, 2009.

Thomas, Brook. *Cross-Examinations of Law and Literature: Cooper, Hawthorne, Stowe, and
Melville*. Cambridge University Press, 1987.

Thoreau, Henry David. "Slavery in Massachusetts." *Walden, Civil Disobedience, and other
writings*, edited by William Rossi, W. W. Norton, 3rd edition, pp. 247 – 259.

Webster, Daniel. "The Constitution and the Union: March 7, 1850." *The Senate, 1789 – 1989:
Classic Speeches, 1830 – 1993*, edited by Robert C. Bryd, Government Printing Office,
1994, pp. 267 – 289.

<https://www.senate.gov/artandhistory/history/resources/pdf/Webster7th.pdf>

*Webster festival. Ode to commemorate the civic festival given to the Hon. Daniel Webster. at
Faneuil Hall*. Boston, 1838. Pdf. Retrieved from the Library of Congress,
<www.loc.gov/item/rbpe.05603300/>.

Whittier, John Greenleaf. "Ichabod." *Poetry Foundation*,

<https://www.poetryfoundation.org/poems/45486/ichabod>