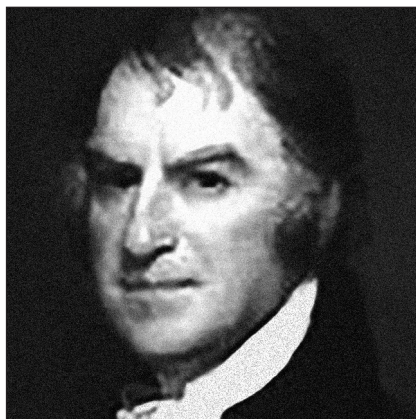




*Mum Bett, who became
Elizabeth Freeman*



Theodore Sedgwick

Slavery in Early New England

Stockbridge Slave Mum Bett and Her Appeal for Freedom

Ben Z. Rose

With the 150-year commemoration of the Civil War still fresh in their minds, students across America will return to school this fall to learn of the events that led to the beginning of the abolitionist movement and the earliest efforts to end slavery. One of the most gratifying aspects about living in New England is knowing that the movement to end slavery arose from this region, and that many who sacrificed their lives in the Civil War did so in an attempt to abolish the South's "peculiar institution."

The institution of slavery, of course, was by no means peculiar to the South. While conducting research on *John Stark: Maverick General*, my biography of the hero of Bennington and Bunker Hill, I discovered the story of Mum Bett, a slave from western Massachusetts who gained her freedom in 1781, eighty years before the outbreak of the Civil War. Mum Bett's court case is the first in which a slave gained her freedom based on the principle of general equality, rather than by proving physical abuse or wrongful enslavement, as others had done. Mum Bett's appeal for freedom therefore provides much insight into the earliest attempts to end slavery, as well as the courage and perseverance required to overturn an established way

of life. Mum Bett's story is also an important reminder that before slavery could be abolished in the South, it needed to be uprooted in the North.

The history of slavery in New England has come to light reluctantly in recent years. Several of the region's Ivy League schools, for example, have been forced to acknowledge that their benefactors gained significant wealth from the slave trade. A brief overview of slavery in New England is therefore essential to understanding the significance of Mum Bett and her freedom suit.

In the years leading up to the Revolutionary War, New Englanders were far more dependent on slave labor than many historians might concede. Africans stripped from the shores of their homeland became artisans and sailors in the region's rum-making and maritime industries. Later, blacks became house servants, soldiers, and field hands, and symbols of success among the lawyers, ministers and merchants who owned them.

Slavery began in New England when a certain Captain William Pierce of Boston traveled to the West Indies in 1638 and traded several Pequot Indians for "salt, cotton, tobacco and negroes . . ." ¹ Bay Colony traders later made the longer and far more dangerous journey to Africa in search of slaves. New England seamen later brought slaves all the way from the remote island of Madagascar, near the tip of the East African coast. Massachusetts gave slavery legal sanction in 1641, and laws evolved later to make it possible for the children of slaves to be kept in captivity. Slavery was to be limited only to those who were "lawful captives taken in just warres, and such strangers as willfully sell themselves or are sold to us." ²

The imprecision of the law left much to interpretation, and if it was unclear as to who could be seized and held in bondage, the law was silent about how long slaves could be kept in captivity. The Puritans of New England looked to the Bible for guidance on this matter. They noted that the ancient Israelites, in accordance with Jewish law, freed their servants after six years. Rhode Island became the only colony in New England to impose a limit on how long blacks were to be enslaved. A statute passed in 1652 fixed the term at ten years. Importantly, laws were never passed to ensure perpetual servitude. Yet many slave owners, by custom, assumed they had such rights.

As an institution and a way of life, slavery continued to evolve in the New England colonies over the next hundred years. In the first-ever census taken in the colony of Massachusetts in 1754, authorities counted 4,489 African slaves for tax purposes. Since the census takers were instructed to omit children under the age of 15, the actual number of slaves could have been much larger, given both the low life expectancy of the era as well as the feeling that the data gathered could be utilized against the population. ³

New England's newspapers advertised slaves for sale in much the same way that cars and trucks are listed today, and African slaves were sold at auction alongside farm animals and fine china. So it was that the *New Hampshire Gazette* alerted the public that at 2 p.m. on Tuesday, the 22nd of April, 1767, in the home of a certain Thomas Beck,

*“ONE yoke of OXEN, several steers; Cows; Sheep; 1 good Horse; several Calves; with sundry other Things, Wearing apparel &c. ALSO a likely Negro GIRL” were available for purchase.*⁴

During the sixty-three year period between 1719 and 1781, nearly two thousand Africans were advertised for sale in the pages of the *Boston Gazette*.⁵ An ad printed in the *New England Weekly Journal* in 1732—which evokes a heartbreaking scene from the recent movie *12 Years a Slave* – stated simply: “likely negro woman about 19 years and a child of about six months of age to be sold together or apart.”⁶ Slave owners later began to remove their own names from such ads, for fear that their slaves would learn of their intent to sell them, which, in turn, might persuade them to run away.

Yet unlike in the South, slaves in New England had rights in courts of law, as the Puritans sought to ensure that their slaves “shall have the liberties and Christian usages which the law of G-d established in Israell concerning such persons doth morally require.”⁷ Slaves and their advocates therefore looked to the courts as a venue through which to pursue their freedom. Many slaves could and did take their owners to court for physical abuse, for a defect in title of ownership, for renegeing on promises made for their freedom, or for wrongful enslavement. As a result, slaves testified in court on their own behalf, and on behalf of others. They could also testify against their white masters or other white citizens in courts of law. After having witnessed the trial of Jenny Slew, a woman of mixed race who ultimately prevailed against her owner in a case awarding damages for wrongful enslavement, John Adams, later the author of Massachusetts’ first Constitution, and the nation’s second president, noted in his diary on November 5, 1765:

*“Attended Court; heard the trial of an action of trespass, brought by a mulatto woman, for damages, for restoring her of her liberty. This is called suing for liberty; the first action that ever I knew of the sort, though I have heard there have been many.”*⁸

Sheffield Lives

Mum Bett’s story takes place in the western Massachusetts towns of

Sheffield and Great Barrington, which are today a part of Berkshire County. Sheffield, located in the southwest corner of Massachusetts, developed a distinct flavor of its own, as its earliest settlers were a mix of Dutch settlers from the neighboring Hudson Valley region of New York, Puritans who came from the eastern towns of Massachusetts, and people of African descent, some of whom had gained their freedom, some of whom had lived across the border in New York and fled their masters, and some of whom were enslaved.⁹ John Ashley settled in Sheffield in 1730, several years after graduating from Yale College, and quickly became Sheffield's leading citizen. He ran a sawmill, a gristmill, a cider mill, a general store, and a 50-acre farm. He also owned three black men, John, Zack, and Harry, who lived in a separate section of his home. The men may have been purchased in slave markets in Hartford, Connecticut, some forty miles to the southeast of Sheffield, or in Albany, some forty miles to its west.

Though Mum Bett would develop a reputation as “a woman who was all humbleness on the surface but iron underneath,”¹⁰ the most basic aspects of her ancestry remain a mystery, including her birth date, family heritage, and the African tribe of her origin. Her only heirlooms were a silk shawl once owned by her father and a short gown that belonged to her mother. It is not entirely clear how the Ashleys came to own Bett and her sister. One theory suggests Mum Bett and Lizzie became the property of Ashley's wife, Hannah, upon the death of her father in 1758. The theory finds support in the tenth paragraph of Pieter Hogeboom's will, where he wrote: “I bequeath to all my children . . . all my negroes and negresses, big and little, young and old, all my horses and cattle and furthermore all my movable goods from the largest to the smallest that may be found after my death, to each his just tenth part.”¹¹ While Hannah is named as one of her father's ten beneficiaries, the names of his slaves are omitted, leading us to wonder whether Mum Bett and her sister really were inherited by Hannah or came to the Ashley household by some other means.

Another possibility, supported by an Ashley descendent, is that Mum Bett and her sister were purchased at the Albany slave market.¹² The only certainty is that Mum Bett and her sister Lizzie became Hannah Ashley's personal property. Mum Bett and Lizzie served at the personal whim of their mistress. They performed physical labor as well as the many maidservant tasks involved in helping to raise four children. All indications are that Mum Bett became an indispensable servant to Hannah Ashley, who was the most powerful woman in town. There, at her beck and call, Mum Bett performed her duties with personal dignity and soon became well known throughout the town for her talent, wit, and fortitude, and in particular her talent as a skilled midwife.

Originally reluctant to take up arms against the Royal government, Ashley emerged as a member of the Patriot camp in the early 1770s. Town leaders gathered in his home to discuss measures that might be taken to protest against the Royal government, which culminated in the Sheffield Resolves, a formal list of grievances written by Sheffield's leaders. Though they could not read or write, Mum Bett and her sister Lizzie listened to the men discuss how they planned to wrestle their rights away from a king who lived across the sea.

One of those who attended the sessions was Theodore Sedgwick, an ambitious 27-year-old attorney who entered Yale College at the age of 15 in the winter of 1761 at a time when less than one percent of the Colonial population pursued higher education. Mum Bett must have noted Sedgwick's passion for the Patriot cause, and wondered whether he would agree that the liberty they sought for themselves ought to include her as well. Mum Bett must have made a favorable impression on the young lawyer with a deep-seated ambition to advance his own career. Neither one realized at the time just how much their future would come to depend upon the other.

Awakening

As the colonies collided on a course of rebellion against the British government, some New Englanders began to see the link between slave ownership and the slave trade. There were others who perceived the injustice of slavery to be incompatible with the struggle for American independence. In 1765, the year of the infamous Stamp Act, a representative from Worcester, a town located some eighty miles to the east of Sheffield, was told to "use his influence to obtain a law to put an end to that unchristian and impolitic practice of making slaves of the human species."¹³

Closer to Mum Bett's home, Massachusetts legislators gathered in the autumn of 1777 to begin debate over a constitution for the state. One of the key issues was whether blacks and Indians should be eligible to vote. Ultimately, lawmakers settled on a constitution that included Article V, that allowed "every male inhabitant of any town in this State, being free, and twenty-one years of age," to vote — "excepting Negroes, Indians and molattoes."¹⁴ Before being put to a vote for the towns of Massachusetts to decide, a certain Dr. Gordon, who served as chaplain to both houses of the legislature, voiced his opposition to the provision:

*"The complexion of the 5th Article is blacker than that of any African; and if not altered, will be an everlasting reproach upon the present inhabitants; and evidence to the world, that they mean their own rights only, and not those of mankind, in their cry for liberty."*¹⁵

Gordon was later dismissed from his office, due in part to his having “rashly reflected upon the General Court.” Several towns to the east of Sheffield weighed in on the subject, including Westminster, whose members roundly rejected the constitution, based on Article V, as did its neighbor Sutton, whose citizens noted “the already accumulated Load of guilt lying upon the Land in Supporting the Slave Trade” By a nearly five to one vote, the constitution of 1778 was rejected.¹⁶

Two years later, lawmakers made progress in search of a new constitution, which included a clause, drafted by John Adams, which held that, “All men are born free and equal, and have certain natural, essential and unalienable rights; among which may be reckoned the right of enjoying, and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.”¹⁷ This version of the Massachusetts Constitution was ratified in June of 1780 and became effective on October 25, 1780. Though it fell short of specifically providing general equality for the colony’s black and Indian citizens, the fact that it omitted restrictions on their personal liberty created an optimism over the prospects for freedom for all of the state’s inhabitants.

As to what inspired Mum Bett to file suit against her master in court, we can only speculate. Catherine Maria Sedgwick, the daughter of Theodore Sedgwick, recalled that a pattern of abuse existed in the Ashley household, and that Mum Bett often bore the brunt of Hannah Ashley’s quick temper. Catherine, who would later become one of America’s first celebrated female authors, wrote that Mum Bett had several times crossed Hannah Ashley, including an episode in which Mum Bett helped a young woman who had been the victim of incest obtain a meeting with John Ashley, then a judge. In the story relayed by Mum Bett to Catherine Sedgwick, Mum Bett comforted the injured girl, despite having to deal with a volatile Hannah Ashley, who showed no empathy for the girl and her plight, and over the forceful objection of Mum Bett, tried to eject her from the house. Sedgwick wrote that there was “no foul thing she did not call the child.”¹⁸ But Mum Bett prevailed in this instance, and as she explained to Catherine Sedgwick, “When I set my foot down, I kept it down.”¹⁹

In another instance, Hannah Ashley threatened Mum Bett’s sister with a hot kitchen shovel, and Mum Bett suffered a blow to her arm as she struggled to protect her sister. Catherine writes that Mum Bett wore the scar from the incident as a badge of honor, and that she was only too happy to point Hannah Ashley’s friends in her direction, when they asked what had caused it.

It is known that Mum Bett likely overheard the discussions of freedom

around the time of the Sheffield Resolves, as Ashley and his colleagues, including Sedgwick, met in his home. It is also possible that the words were reinforced at the time of the passage of the Constitution in 1780. Such documents were often read aloud in public, and it is likely that it became a topic of conversation at the time. It also appears plausible that Mum Bett approached a sympathetic Theodore Sedgwick with the idea of gaining her freedom. A French traveler to the United States, a certain Francois-Alexandre-Frederic duc de La Rochefoucauld-Liancourt, visited New England about fifteen years after Mum Bett's court case, and spent time in the home of Theodore Sedgwick. In his book, *Travels Through the United States of North America*, first published in London in 1799, he recalled that "some negroes, prompted by private suggestion, maintained that they were not slaves; they found advocates, among whom was Mr. Sedgwick." ²⁰

The Trial

Theodore Sedgwick soon realized that winning Mum Bett's freedom would be no simple task. By law, and through custom and tradition, slavery had existed in Massachusetts for more than a hundred years. Sedgwick knew, moreover, that he would be taking on John Ashley, a former judge, his mentor, a client – as the court records demonstrate leading up to the trial – and also the most powerful citizen of Sheffield. It was certain that he would choose experienced counsel to help him.

Though Theodore Sedgwick, then 35 years old, had no reason to doubt his own expertise, he turned to Tapping Reeve, a legal scholar who lived in Litchfield, Connecticut, located just over the state's southwestern border. Reeve grew up on Long Island, New York. His father, Abner, a Presbyterian minister, preached his last sermon in Brattleboro, Vermont, at the age of 85.²¹ After graduating first in his class from the College of New Jersey, later renamed Princeton, the younger Reeve quickly acquired a reputation as a talented attorney. He began teaching law from a bedroom in his home to supplement his income during the Revolutionary War.

One of the first challenges facing the team was whether any woman – black or white – could file a suit on her own, and be recognized in a court of law. Sedgwick and Reeve wanted to ensure their suit would not be dismissed on procedural grounds. Mum Bett may have suggested the remedy: she knew of another slave named Brom, who was owned by John Ashley's son. Sedgwick and Reeve added him as a co-plaintiff to the suit. Perhaps they reasoned that a man and woman acting together would have a better chance of gaining their freedom than a woman acting alone. This leads to speculation as to whether there may have been a closer relationship between

Brom and Bett. The court record, however, clearly identifies Bett as a “spinster” and Brom as a “laborer.” Adding Brom had another benefit, for it enabled the team to add John Ashley’s son as a co-defendant, thus ensuring that there would be no excuse to delay the trial in the event that the senior Ashley, who at the time was 71 years of age, declined to appear before the court.

Mum Bett was not the first slave of John Ashley’s to file a suit against him in search of freedom. Attorneys for Zack Mullen, another slave of Ashley’s, had filed a suit on the basis of “trespass,” a legal term that implied physical harm had been done to him. For unknown reasons, Mullen’s case had been postponed several times.²² Perhaps Bett and Brom would benefit from the knowledge that other slaves of John Ashley had been mistreated.

This would have been considered an important trial. The presence of the region’s most distinguished legal minds, the postponement of the Zach Mullen trial, and the timing of the trial – less than a year after the passage of the state’s constitution – suggest that Reeve and Sedgwick intended to test the document’s “free and equal” clause.²³

Brom and Bett vs. J. Ashley, Esq. commenced in May of 1781 when Sedgwick and Reeve issued a writ of replevin, a civil procedure under English common law to recover improperly gained property. The decision to issue the writ was another indication that the basis of the legal argument centered around a larger cause than mere physical abuse or a defect in title relating to ownership. The court clerk delivered the writ to John Ashley and his son, who were warned that unless Brom and Bett “were taken by our special command, or by the command of our Chief Justice, or for Homicide, or for any other just cause,” that they must be delivered to the court.²⁴

John Ashley, however, “did not permit a delivery of the aforesaid Brom and Bett to be made because he asserted that the said Brom and Bett were his Servants for Life, thereby claiming a right of servitude . . .”²⁵ The Ashleys refused to comply with several court orders over the next few months. But they did finally relent and agreed to a court date, which was set for August 21, some three months after the first court order was issued. All eyes turned to the county courthouse, which stood at the junction of Main and Castle streets in the middle of Great Barrington. The courthouse was, according to town historian Charles Taylor, “destitute of architectural pretention or ornament, save a semi-circular window in its eastern gable and some little carved wood work about the front door.”²⁶ Through a curious quirk in its construction, the building overflowed onto the town’s main street.²⁷ Thus, Mum Bett’s fate would be determined by a group of Berkshire farmers in a simple, unpainted, wooden edifice that measured 30

by 40 feet, and stood a mere story and a half tall.

The trial log for *Brom & Bett versus J. Ashley, Esq.* is housed in the Massachusetts state archives next to the John F. Kennedy Library in Boston, and reveals only the facts of the case and, regrettably, neither the line of reasoning advanced by Sedgwick and Reeve, nor the basis on which the judge and jury made their decision. Nonetheless, Rochefoucauld-Liancourt, in his previously cited *Travels Through the United States of North America*, recalls that Sedgwick's argument was two-fold: first, that the laws of Massachusetts never gave slavery legal sanction; and second, that even if they had been interpreted in such a way as to make slavery permissible, any such laws were obviated by the state Constitution of 1780, which held that all men are free and equal. Thus any laws enacted prior to this new document were to be considered null and void.²⁸

It is known for sure that Sedgwick and Reeve convinced the jury that Mum Bett and Brom could not be considered Ashley's property for life, and that they had been, in fact, illegally detained in bondage. The jury awarded Brom and Bett "thirty shillings lawful Silver Money Damages And the Costs of this Suit Taxed at five pounds fourteen Shillings and four pence like Money."²⁹

Ashley and his son immediately filed an appeal. Reflecting further on their prospects for success, they decided a short time later to "confess judgment" and abide by the court's decision. Clearly, their enthusiasm to appeal the verdict had to be influenced by the shift of popular opinion away from the practice of slavery. Although the Constitution of Massachusetts was never amended to prohibit slavery, and no law was passed to prevent its practice, the prevailing sentiment within Massachusetts shifted against it, and by most accounts slavery withered away in the state over the next decade.

Though it would be many years before momentum would gather for a nationwide debate over the practice of slavery, the actions taken by Mum Bett, Theodore Sedgwick, and Tapping Reeve in a small county courthouse in 1781, would become an important precursor to the abolitionist movement, and evidence that even if state legislators were reluctant to move forward to bring an end to slavery, the civil courts of New England could be an important catalyst to advance the cause of freedom.

Postscript on the Main Characters

Following her successful appeal for freedom Mum Bett changed her name to Elizabeth Freeman. She went to work in the Sedgwick home as a governess, and helped to raise Sedgwick's children as his wife struggled through the anguish of depression. Mum Bett also raised her own family,

though details on her private life remain sketchy since she left no personal journal or written letters. Court records indicate she purchased her own home in Stockbridge, from which she could view Monument Mountain.

Theodore Sedgwick became a U.S. senator from Massachusetts, as well as a member of the U.S. House of Representatives, eventually becoming the fifth speaker of the House. He later served on the Massachusetts Supreme Judicial Court.

Tapping Reeve, Sedgwick's co-counsel, created the Litchfield Law School in 1784, arguably America's first formal school of law. Its alumni include two vice presidents, three U.S. Supreme Court justices, and 28 U.S. senators. Reeve later became a member of Connecticut's Supreme Court, eventually becoming its chief justice. □

- 1 Greene, *The Negro in Colonial New England*, 17.
- 2 Higginbotham, *In the Matter of Color*, 62.
- 3 Moore, *Slavery in Massachusetts*, 50. Writing in 1866, the year after the end of America's Civil War, historian Moore observed: "Some recalled the numbering of Israel by David, and perhaps all were jealous of the possible designs of the Government in England in obtaining accurate information of their numbers and resources. It is a curious fact that the first census in Massachusetts was a census of negro slaves."
- 4 Greene, *The Negro in Colonial New England*, 72.
- 5 Deroschers, "Slave for Sale Ads," 623–4.
- 6 Deroschers, "Slave for Sale Ads," 634.
- 7 Higginbotham, *In the Matter of Color*, 62.
- 8 Williams, *History of the Negro Race in America*, 228.
- 9 Miller, *Early Life in Sheffield*, 11–12.
- 10 Nash, *Forgotten Fifth*, 20.
- 11 Graham, "The Life and Times of Elizabeth Freeman," 5.
- 12 Drew, *If They Close the Door*, 31.
- 13 Williams, *History of the Negro Race in America*, 220.
- 14 Moore, *Slavery in Massachusetts*, 191.
- 15 Moore, *Slavery in Massachusetts*, 193.
- 16 Higginbotham, *In the Matter of Color*, 89.
- 17 Higginbotham, *In the Matter of Color*, 90.
- 18 Catharine Maria Sedgwick, "Slavery in New England," 2.
- 19 Catharine Maria Sedgwick, "Slavery in New England," 2.
- 20 Liancourt, *Travels Through the United States of North America, Volume III*, 326.
- 21 Swanson, "Tapping Reeve," 8.
- 22 Zilversmith, "Mumbet: Folklore and Fact," 11.
- 23 Zilversmith, "Mumbet: Folklore and Fact," 11.
- 24 Brom and Bett Vs. J. Ashley, Esq., court transcript.
- 25 Brom and Bett Vs. J. Ashley, Esq., court transcript.
- 26 Taylor, *History of Great Barrington*, 288.
- 27 Taylor, *History of Great Barrington*, 288.
- 28 Swan, "The Slave Who Sued for Freedom;" Moore, *Notes on Slavery in Massachusetts*, 210–211.
- 29 Brom and Bett Vs. J. Ashley, Esq., court transcript.

Bibliography

Unpublished Primary Sources

Brom and Bett vs. J. Ashley, Esq., August 21, 1781 (Massachusetts State Archives, Boston, MA).

Books

Drew, Bernard A. *If They Close the Door on You, Go in the Window. Origins of the African American Community in Sheffield, Great Barrington & Stockbridge*. Great Barrington, MA: Attic Revivals Press, 2004.

Greene, Lorenzo Johnston. *The Negro in Colonial New England: 1620-1776*. New York: Columbia University Press, 1942.

Higginbotham Jr., A. Leon. *In the Matter of Color: Race and the American Legal Process: the Colonial Period*. New York: Oxford University Press, 1978.

La Rochefoucauld-Liancourt, Francois-Alexandre-Frederic (duc de). *Travels Through the United States of North America: The Country of the Iroquois, and Upper Canada, in the Years 1795, 1796, and 1797. Volume 3*. London: R. Phillips, 1800.

Miller, James R. *Early Life in Sheffield Berkshire County, Massachusetts: A Biography of its Ordinary People from Early Times to 1860*. Sheffield, MA: Sheffield Historical Society, 2002.

Moore, George H. *Notes on the History of Slavery in Massachusetts*. New York: D. Appleton & Co., 1866.

Nash, Gary B. *The Forgotten Fifth: African Americans in the Age of Revolution*. Cambridge, MA: Harvard University Press, 2006.

Taylor, Charles J. *History of Great Barrington (Berkshire County), Massachusetts*. Great Barrington: C.W. Bryan and Company, 1882.

Williams, George Washington. *History of the Negro Race in America From 1619 to 1880. Negroes as Slaves, As Soldiers, and as Citizens. Together with a Preliminary Consideration of the Unity of the Human Family, an Historical Sketch of Africa, and an Account of the Negro Governments of Sierra Leone and Liberia*. New York: G.P. Putnam's Sons, 1883. (Reprint Edition by Arno Press and The New York Times, New York, 1968).

Articles, Essays, and Unpublished papers:

Desrochers Jr., Robert E. "Slave-For-Sale Advertisements and Slavery in Massachusetts, 1704-1781." *William and Mary Quarterly*, July, 2002: 623-664.

Graham, Paul F. "The Life and Times of Elizabeth Freeman" Unpublished paper, December 21, 1981, Sheffield Historical Society.

Sedgwick, Catharine Maria. "Slavery in New England." *Bentley's Miscellany* 34 (1853): 417-424, reprinted by Salem State College at www.salemstate.edu/imc/sedgwick/slavery.html.

Swan, Jon. "The Slave Who Sued for Freedom." *American Heritage*, 41, No. 2 (1970): 51-55.

Swanson, Eleanor P. "Tapping Reeve," unpublished article, Litchfield Historical Society.

Zilversmit, Arthur. "Mumbet: Folklore and Fact," *Berkshire History*, 1, No. 1 (1971).