

# Trial of Thomas Sims, on an issue of personal liberty, on the claim of James Potter, of Georgia, against him, as an alleged fugitive from service; ... decision of George T. Curtis, Boston, Apri

Robert Rantoul



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Trial of Thomas Sims, on an issue of personal liberty, on the claim of James Potter, of Georgia, against him, as an alleged fugitive from service; ... decision of George T. Curtis, Boston, Apri Robert Rantoul This historic book may have numerous typos and missing text. Purchasers can download a free scanned copy of the original book (without typos) from the publisher. Not indexed. Not illustrated. 1851 Excerpt: ...But I will say, that there is no man in the Commonwealth before whom as a Commissioner, I would prefer to have this case brought; yet I oannot forbear to argue in plain language. If I understand this case, and if I understand your sagacious suggestions during the argument of my colleague, and in the discussions of this trial, the whole ground of your authority rests upon the construction put upon this law that it is merely a preliminary procedure in the nature of an extradition, and not an adjudication of the rights of the parties in contestation. You have already pronounced this to be your decision, and I suppose it to be your only ground, for if it is a suit at law, then you are too much of a lawyer not to know that it would be unconstitutional for a Commissioner to sit in judgment upon it. The Commissioner. I do not know as I have said that that was my ground solely and decidedly. Mr. Loring. Not solely, but decidedly.. Your Honor does not undertake to pass judgment upon the rights of these parties. The Commissioner. I undertake to pass judgment sufficient to pass the prisoner from this Commonwealth, but fqr a specific purpose. Mr. LoaiNg. For extradition, merely? The Commissioner. My view of it is this: That here is a judicial inquiry, in its nature judicial, because the mind of the officer who has to grant the certificate must be satisfied upon proofs that it ought to be granted; that there is an inquiry directed to be made; and that upon the result of that inquiry being shown to be in favor of the claimant, the aid of the executive power of the United States is ordered by Congress to take the party claimed away. Now the argument which objects to the exercise of such power as being judicial power, and not vested, and not being capable of being vested i...

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