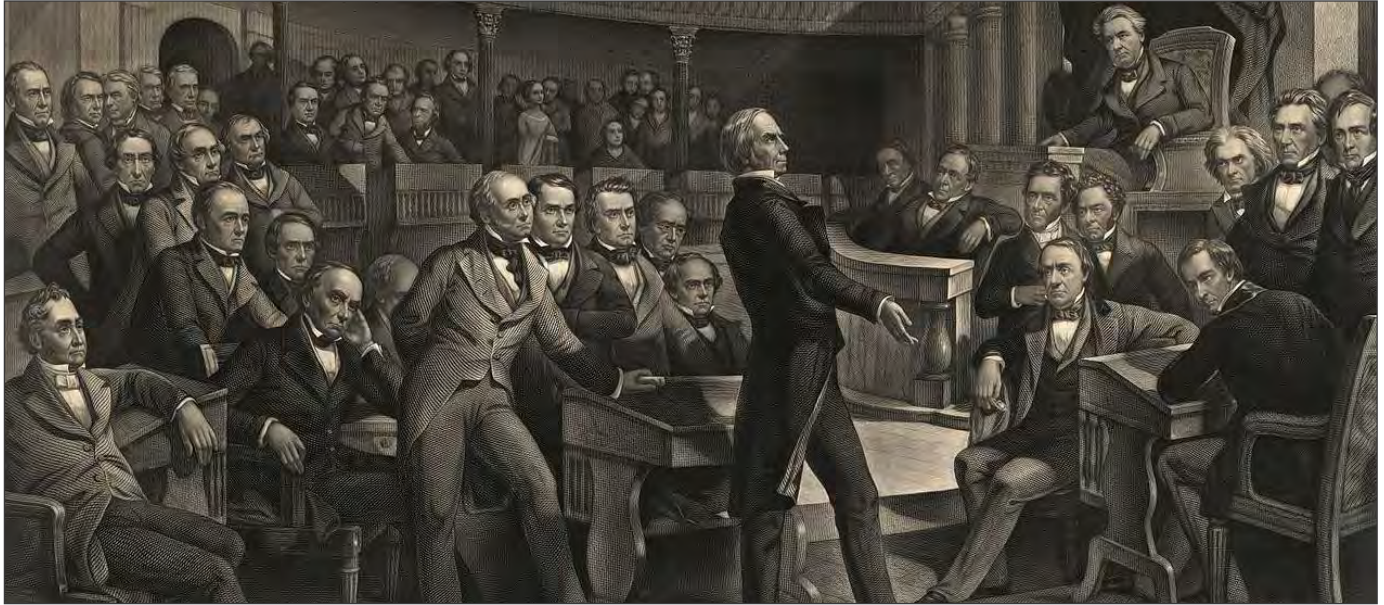


THE FUGITIVE SLAVE LAW OF 1850



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Senator Henry Clay of Kentucky introducing the Compromise of 1850 in the United States Senate.

In 1850, Southerners succeeded in getting a new federal law passed to return fugitive slaves who had escaped to the North. The U.S. government enforced this law, but some Northern states passed laws to resist it. Sometimes, free blacks and sympathetic whites joined to rescue captured fugitive slaves.

The idea of returning fugitive slaves to their owners originated at the Constitutional Convention in 1787. At that time, the Constitution stated:

No Person held to Service or Labor in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law of Regulation therein, be discharged from such Service or Labor, but shall be delivered up on Claim of the Party to whom such Service or Labor may be due. (U.S. Const. art. IV, sec. 2, cl. 3)

Nearly all the states in 1787 held that slavery was legal. But Northern states soon began to outlaw it and provide refuge for escaping slaves. This prompted Southern slave owners to demand a law by Congress to enforce the provision in the Constitution that required the return of escaped persons “held to Service or Labor,” in other words, fugitive slaves.

In 1793, Congress passed the first Fugitive Slave Law. This law left it mainly up to the slave owners and their hired slave catchers to capture and return runaway slaves.

In the meantime, free blacks and anti-slavery whites organized a slave-escape system that came to be called the Underground Railroad. This involved escape routes, houses for hiding, and guides called “conductors” to help escaping slaves reach refuge in the North.

Probably the most famous Underground Railroad conductor was Harriet Tubman. She escaped slavery herself in 1849. Then she repeatedly returned to the

South to guide about 70 slaves to freedom. “I was free, and they should be free,” she said.

Abolitionists argued that once slaves touched the soil of a non-slave state, they were free. Some Northern states prohibited county sheriffs from assisting slave hunters or allowing county jails to hold their captives.

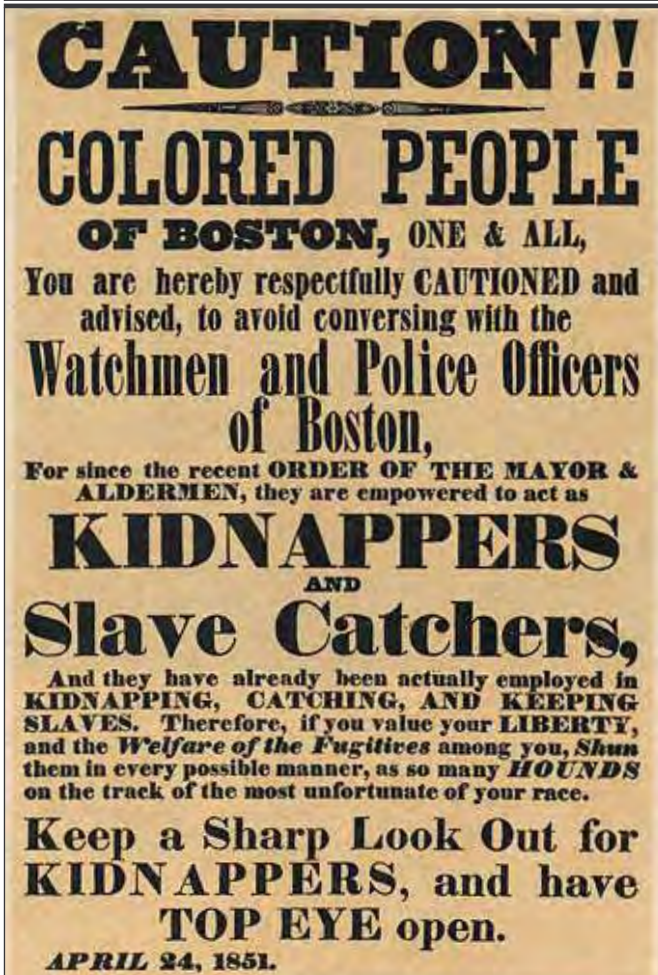
In 1842, the U.S. Supreme Court in *Prigg v. Pennsylvania* found the Fugitive Slave Law of 1793 constitutional. However, enforcement of the law was the responsibility of the federal government, held the court, not the states. The Supreme Court also decided that slave holders had “the complete right and title of ownership in their slaves, as property, in every state in the union into which they might escape. . . .”

This ruling stiffened abolitionist resistance to the Fugitive Slave Law. Southerners intensified their demands for stronger federal enforcement of it.

The New Law in 1850

After the Mexican-American War ended in 1848, the U.S. acquired vast new territories in the West called the Mexican Cession. This re-opened the issue of the expansion of slavery west of the Mississippi River. The Missouri Compromise of 1820 had seemingly settled this matter. It barred slavery north of a line of latitude that now included part of the Mexican Cession. Southerners now wanted these lands open to slavery.

In Congress, Henry Clay, representing the South, and Daniel Webster, representing the North, reached a compromise that was signed into law by President Millard Fillmore on September 18, 1850. The North got the admission of California to the Union as a free state and abolition of the slave trade in the District of



An 1851 abolitionist poster warning escaped slaves in Boston to beware of police officers and others authorized to act as slave catchers.

Columbia. The South, under the concept of “popular sovereignty,” got a provision that allowed the voters in the new Utah and New Mexico territories to decide if they would be free or slave. The South also got a new Fugitive Slave Law.

The main difference between the new Fugitive Slave Law and the one enacted in 1793 was that the federal government would play a much more active role in returning escaped slaves to their masters. Key to the new process were commissioners appointed by federal judges.

Commissioners and federal judges had the authority to issue warrants to slave owners, slave catchers, or U. S. marshals to arrest suspected fugitive slaves. However, no arrest warrants were required, and accused escaped slaves could be seized without them.

The fugitive slave hunters had the right to demand the help of U.S. marshals. In addition, the law stated that “all good citizens are hereby commanded to aid and assist in the prompt and efficient execution of this law.” Any person who interfered with an arrest, attempted a rescue, or aided or hid a fugitive slave was liable for a \$1,000 fine and up to six months in jail.

It was in Boston that the first widely publicized fugitive slave rescue occurred.

Once in federal custody, a person accused of being a fugitive slave was taken before a commissioner for a hearing to determine proof of his or her identity as an escaped slave. This was usually provided by an affidavit that had been sworn under oath by the slave’s owner in the court of the county from where the slave had escaped. The affidavit described the fugitive slave and the circumstances of his or her escape. At the hearing, the law prohibited the accused fugitive slave from testifying in his or her own defense.

Hearings before commissioners often lasted just minutes. If the identity of the person as an escaped slave had not been proven, the commissioner would order the person’s release and collect a fee of \$5. If the person’s identity had been proven, the commissioner would issue a certificate, authorizing the fugitive slave’s removal to his or her owner, and collect a fee of \$10.

Normally the slave owner or his agent would transport the slave back to the South. If there was evidence of an attempt to rescue the slave, the commissioner could order the U.S. marshal to hire as many persons as necessary to return the slave at the expense of the U.S. government.

Fugitive Slave Rescues

The first year of the new Fugitive Slave Law’s operation caused much turmoil among Northern free blacks and abolitionist whites. They especially hated the provision that required ordinary citizens to aid in the capture of fugitive slaves.

Many Northern cities formed biracial Vigilance Committees to alert fugitive slaves about the presence of slave hunters. Some black communities formed armed militias.

At this time, Boston was the center of anti-slavery agitation in the country. It was here that the first widely publicized fugitive slave rescue occurred. On February 15, 1851, slave catchers captured Shadrach Minkins at a restaurant where he was a waiter. He had escaped slavery from Virginia the previous year.

Known by most as Shadrach, the slave catchers took him to a commissioner for a hearing. But before the hearing got underway, about 20 black men barged into the courtroom and carried him away. They hid him until sending him on to freedom in Canada. It was a colony of Britain that had abolished slavery in 1834.

Shadrach’s surprising rescue caused celebration in the North and rage in the South. President Fillmore and his secretary of state, Daniel Webster, signed a proclamation, warning against “MOB LAW” and accusing the rescuers of treason. Some of the rescuers were arrested and put on trial but none were ever convicted.



The New York Public Library

This 1899 image shows Anthony Burns and Thomas Sims marched through Boston as they were returned to slavery. Actually, Sims was returned in 1851 and Burns in 1854. Boston abolitionists bought Burns's freedom in 1856. He returned to Boston. Sims later escaped again in 1863, and U.S. Attorney General Charles Devens appointed Sims to a position in the Department of Justice.

Barely two months later, Thomas Sims was arrested and taken to the Boston courthouse for his hearing. Outside, abolitionists addressed crowds of blacks and whites. The state militia was ordered to protect the courthouse. Meanwhile, the Vigilance Committee met to plan a rescue. But this time the government was prepared. When the commissioner ordered Sims returned to his owner in Georgia, hundreds of state militiamen marched him to a federal ship that took him to Savannah.

In September 1851, Maryland slave owner Edward Gorsuch led a posse into Pennsylvania to capture his four escaped slaves. He secured an arrest warrant from a commissioner in Philadelphia plus the aid of a U.S. marshal.

Gorsuch's posse tracked two of the slaves to Christiana, where they had been hidden in the home of a black abolitionist, William Parker. When Gorsuch presented his warrant, Parker refused to let him and his men enter the house. Parker's wife then blew a horn from a window, alerting neighbors of the attempt to capture the fugitives. The posse fired their guns at her.

Soon, armed black neighbors and some whites arrived at the scene, outnumbering the posse. Most of them began to retreat, but Gorsuch refused to leave. "I want my property and I will have it!" he yelled. In the resulting confusion, Gorsuch was shot and killed, probably by one of his former slaves. Parker, his wife, and the fugitives then fled to Canada.

The violence shocked even abolitionists. Local, state, and federal law enforcement and a unit of U.S. Marines made mass arrests of blacks suspected of participating in the "Christiana riot." They were accused of treason, but none were convicted.

One of the most spectacular rescues occurred one month later in Syracuse, New York, where an anti-slavery convention happened to be meeting. Jerry Henry had escaped slavery from Missouri several years earlier. A U.S. marshal arrested and took Jerry, as he was commonly called, in handcuffs to a commissioner for his fugitive slave hearing.

Word spread quickly and crowds, consisting of black and white supporters, gathered outside and inside the courthouse. In the commotion, Jerry bolted out of the courtroom still in handcuffs, but he was soon caught by local police. Jerry was taken to the police station where the commissioner decided to resume the hearing.

After the hearing was adjourned, Jerry was locked up in the police station. Thousands had surrounded it, shouting for Jerry's release. Finally, an organized band of black and white members of the Syracuse Vigilance Committee attacked the police station, overwhelmed guards, and used a battering ram to break into the room where Jerry was held. They took him out of the police station and then hid him in town. Later, they sent him through the Underground Railroad to Canada.

U.S. authorities arrested dozens of suspected rescuers and tried them for treason. Only one was convicted, but he died before his appeal was heard. The rest were not convicted, or their cases were dropped.

Rescues continued in several states but were rare. The commissioner hearing process proceeded with the backing of federal force.

Northern State Resistance

At first there was widespread hostility against the Fugitive Slave Law. But then public opinion in the North changed to support it. The law was part of the Compromise of 1850 that many Northerners believed was the "final settlement" of the slavery issue to keep the Union together.

However, in 1854, Congress passed the Kansas-Nebraska Act. This enabled citizens in these two western territories to vote if they would be free or slave. This act re-ignited the slavery issue that most thought had been settled in 1850.

In 1857, the Supreme Court decided in *Dred Scott v. Sandford* that black persons, slave or free, could never become U.S. citizens. The court also decided that if a slave entered a free state he or she remained slave property. ▶

Two years later in *Ableman v. Booth*, the Supreme Court found the Fugitive Slave Law to be constitutional.

In addition, newspapers reported the kidnapping of free black persons by criminals who sometimes convinced commissioners their captives were fugitive slaves. The kidnappers then took them South to be auctioned into slavery.

Abolitionists, free blacks, and a growing number of Northern whites were furious about all these developments. Seven Northern states decided to resist the Fugitive Slave Law by passing “personal liberty laws,” which granted accused fugitive slaves certain protections and due process of law. States varied in what laws they enacted, but they often included:

- providing legal representation to accused fugitive slaves, sometimes by the county attorney;
- requiring a jury trial to decide if the slave owner’s affidavit was adequate;
- barring use of local or state jails;
- prohibiting state officials from any participation in enforcement of the Fugitive Slave Law.

One other personal liberty law granted an accused fugitive slave the right of habeas corpus. This meant a state court judge could order a fugitive brought before him for settlement of a case. As a result, habeas corpus disputes between state and federal courts occurred over who should have jurisdiction of an accused fugitive slave.

In one famous case, escaped slave Margaret Garner killed her two year-old daughter during her arrest and threatened to kill her three other children to prevent them from being returned to a life of slavery. This caused a dispute over whether Garner should be tried for murder in a state court or processed at a federal commissioner’s hearing.

A federal judge finally ruled that the hearing took priority and cancelled the state’s claim of jurisdiction. Garner and her three children were then returned to slavery.

The strategy of state resistance to the Fugitive Slave Law increased the costs of slavecatching, stopped some kidnapping, and slowed the commission-hearing process.

Repeal of the Fugitive Slave Law

When the Confederate states seceded, President Lincoln continued to enforce the Fugitive Slave Law. He said he did this to keep the slave-holding border states in the Union.

Lincoln’s Emancipation Proclamation of 1863 applied only to those states in rebellion. Fugitive slaves were still returned to owners in states loyal to the Union.

The Fugitive Slave Law remained in effect, although not strictly enforced, until nearly the end of the war. Congress finally passed its repeal and President Lincoln signed it on June 28, 1864.

Between 1850 and 1860, an estimated 15,000 or more slaves escaped slavery in the South. Thousands went as far north as Canada. But only 330 of the escaped slaves were caught, taken before commissioners, and returned to the degradation of slavery. The Fugitive Slave Law had managed mainly to energize the abolitionist movement and the Underground Railroad. Through their efforts, thousands of escaped slaves remained free.

WRITING & DISCUSSION

1. Supporters of the Fugitive Slave Law argued that the Constitution and laws passed by Congress should always be obeyed. How do you respond to this argument?
2. Fugitive slave rescues were illegal acts. What did rescuers risk by disobeying the law?
3. In the case of Margaret Garner, if she had been tried in a state court, do you think she should have been found guilty? If she had been found guilty, what do you think an appropriate sentence should have been? Give reasons for your answers.

ACTIVITY: Letters to Lincoln

According to historian Andrew Delbanco, President Lincoln enforced the Fugitive Slave Act during the Civil War in order to preserve the union – and therefore ultimately defeat the Confederacy. “Vile as it was,” writes Delbanco, “the Fugitive Slave Law was also, ironically, a gift to antislavery activists because wherever it was enforced, it allowed them to show off human beings dragged back to the hell whence they came — a more potent aid to the cause than any speech or pamphlet. It implicated Northerners in the business of slavery in a way they had never felt before.”

What do you think of President Lincoln's decision to enforce the Fugitive Slave Law?

1. Each student will first write a letter to Lincoln on this question, using information and facts in the article.
2. Students will then meet in groups, read their letters to each other, discuss the question, and try to reach agreement on it.
3. Groups will then report their conclusions to the class.



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Standards Addressed

California History-Social Science Standard 8.9 Students analyze the early and steady attempts to abolish slavery and to realize the ideals of the Declaration of Independence. (4) Discuss the importance on the slavery issue of the annexation of Texas and California's admission to the union as a free state under the Compromise of 1850. (5) Analyze the significance of the States' Rights Doctrine, the Missouri Compromise (1820), the Wilmot Proviso (1846), the Compromise of 1850, Henry Clay's role in the Missouri Compromise and the Compromise of 1850, the Kansas-Nebraska Act (1854), the Dred Scott v. Sandford decision (1857), and the Lincoln-Douglas debates (1858).

National United States History Standard 10: Understands how the industrial revolution, increasing immigration, the rapid expansion of slavery, and the westward movement changed American lives and led to regional tensions. Middle School Benchmark 5: Understands different economic, cultural, and social characteristics of slavery after 1800 (e.g., the influence of the Haitian Revolution and the ending of the Atlantic slave trade, how slaves forged their own culture in the face of oppression, the role of the plantation system in shaping slaveholders and the enslaved, the experiences of escaped slaves).

National United States History Standard 13: Understands the causes of the Civil War. High School Benchmark 2: Understands events that fueled the political and sectional conflicts over slavery and ultimately polarized the North and the South (e.g., the Missouri Compromise, the Wilmot Proviso, the Kansas-Nebraska Act).

Common Core State Standards: SL.6-8/11-12.1, SL.6-8/11-12.3, RH.6-8/11-12.1, RH.6-8/11-12.2, RH.6-8/11-12.3, RH.6-8/11-12.4, RH.6-8/11-12.10, WHST.6-8/11-12.1, WHST.6-8/11-12.2, WHST.6-8/11-12.9, WHST.6-8/11-12.10.

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