Fugitive Slave Renditions and the Proslavery Crisis of Confidence in Federalism, 1850–1860

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In June 1853, Missouri slaveholder Pleasant Ellington lawyered up and headed north for Indianapolis to reenslave John Freeman. Ellington insisted that Freeman's real name was Sam and that he had escaped from slavery nearly two decades earlier in 1836. With the 1850 Fugitive Slave Act on the books, Ellington had reason to expect that claiming Freeman would be the work of a few hours. The new law denied accused freedom seekers the right to testify, entrusting their fate instead to federal officials known as U.S. commissioners, who were financially incentivized to find in favor of slaveholders, receiving a $10 fee for every person they returned to slavery, compared to just $5 for each person they released. But Ellington was in for a surprise when he encountered William Sullivan, the U.S. commissioner handling the case. Not only did Sullivan acknowledge the Black activists and antislavery attorneys who elbowed their way into his hearing room, he granted their motion for a staggering nine-week adjournment over the slaveholders' furious objections, before ultimately releasing Freeman. "The law don't contemplate a trial," snapped Ellington's lawyer, adding that "the fugitive has no right to introduce any evidence to show his freedom." Ellington's reading of the law was beyond dispute, but fully two-thirds of alleged freedom seekers arrested under the federal code enjoyed legal representation. The disparity between the Fugitive Slave Act's draconian intentions and its actual execution sheds light on mounting white southern disaffection with the national government during the 1850s. In short, the new federal law intended to appease white southerners and preserve the Union did just the opposite. Black and white northerners frustrated the law's operations, changing the way slaveholders understood their relationship to the central state and American federalism and ultimately propelling many southerners toward secession.[1]

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[1] "John Freeman," *New Lisbon (OH) Anti-Slavery Bugle,* July 16, 1853, p. 1. For a detailed account of the James Freeman case, see Chris Walker, "The Fugitive Slave Case of John Freeman and Its Influence on Indiana Politics," *Indiana Magazine of History,* 114 (March 2018), 1–38. The two-thirds figure comes from Wingert Caseload Database compiled by the author. The sources and methods used to compile this new database are discussed in footnote 3, below.

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As the gap between Pleasant Ellington's expectations and experiences reveals, slaveholders had long used the U.S. government to beat back antislavery measures, but now they had good reason to question whether federal support could counteract mounting resistance in the northern states. Black-led vigilance committees prolonged rendition hearings and charged federal officers and slaveholders under personal liberty laws in state courts, all while northern communities and leading politicians cheered the Underground Railroad activists breaking the law and aiding freedom seekers. Although the U.S. government assured slaveholders that it would uphold their property rights in slaves in the northern states, most of the politically ambitious white northerners serving part time as U.S. commissioners proved more responsive to the wishes of their local communities than to slaveholders' insistence that they adhere to the law's harsh provisions. The federal commitment behind slavery was never in question, as made clear by policies such as the Kansas-Nebraska Act in 1854 and the *Dred Scott* ruling three years later, but slaveholders increasingly doubted the sufficiency of any federal commitment, no matter how strong, to silence mounting northern opposition and enforce their vision of slavery national.[2]

Using newspaper databases, case files, and scattered collections of personal papers, I compiled a new database of fugitive cases from 1850–1860, hereafter referred to as the Wingert Caseload Database. A growing number of scholars are using digitized newspapers to reveal the scope and significance of slave flight before the Civil War. The pioneering databases they have created persuasively show that once on northern soil, far more freedom seekers eluded recapture than were carried back into slavery. My database, by comparison, identifies the 135 men, women, and children who *were* recaptured by federal authorities. In doing so, my database clarifies why the vast majority of freedom seekers who reached the northern states remained free: because the concessions that Black northerners wrangled from U.S. commissioners made fugitive slave renditions lengthy, costly, and uncertain processes. Most slaveholders, anticipating expenses that would near or surpass the market value of the enslaved, decided that pursuit was not feasible or worthwhile. While historians have long identified the rise of the Republican party in the North and possible restrictions on slavery in the western territories as central factors behind secession, they also assumed that southern dissatisfaction over the Fugitive Slave Act so plainly stated in secession ordinances was a tangential concern at best, or the result of deluded panic at worst. Careful attention to the struggles inside federal hearing rooms reveals that to secessionists the fugitive crisis was no afterthought. The antislavery vigilance movement in the northern states exposed to white southerners the inadequacy of federal protections for slavery even before the formation of the Republican party, let alone Abraham Lincoln's election. In the decade before the Civil War, slaveholders brooded over the Fugitive Slave Act's ineffectiveness and reconsidered their relationship with the national government, which had long been their stalwart ally in the protection of slave property interests. Slaveholders believed that the law's shortcomings suggested that slavery could not exist securely in a decentralized federal system and could only be protected within a central state that left no room for local dissent.[3]

[2] Kansas-Nebraska Act, 10 Stat. 177 (1854); *Scott v. Sandford,* 50 U.S. 393 (1857).

[3] I compiled the Wingert Caseload Database through extensive use of newspaper databases, as well as case files and habeas corpus proceedings in the Records of the District Courts of the United States, Record Group 21, at the National Archives in Washington, D.C., College Park, Maryland, and Philadelphia, Pennsylvania. As a starting point, I turned to the running list kept by the abolitionist Samuel May and to Stanley Campbell's case load data. See Samuel May, *The Fugitive Slave Law and Its Victims* (New York, 1856); Samuel May, *The Fugitive Slave Law and Its*

Secessionists named the fugitive crisis as one of their primary reasons for leaving the Union, but historians have long questioned how central it actually was to the sectional conflict. It is tempting to conclude, as an earlier generation of scholars did, that slaveholders simply exaggerated the extent of the problem. After all, the 1850 law expanded federal power to benefit slaveholders; the number of escapes remained relatively low (1,000–3,000 people per year out of an enslaved population approaching 4 million); and the few cases that arose generally resulted in renditions. Even more puzzling, the most vocal critics of the way the law was enforced in the North hailed from the Deep South, the region least affected by escapes. Recent scholars have stressed the destabilizing impact escapes had on slave society, the breakdown of comity between slave and free states, and slaveholders' sense of injured honor at mounting northern opposition. This rich body of work has returned the fugitive crisis to the center of debates over the coming of the Civil War, but historians still lack a satisfying answer for why slaveholders felt so strongly about a law that had little direct impact outside the border states.[4]

For more than half a century, scholars have relied upon Stanley Campbell's *The Slave Catchers* (1968) for case load data about the law's operations. The fact that Campbell

Victims; Revised and Enlarged Edition (New York, 1861); and Stanley W. Campbell, *The Slave Catchers: Enforcement of the Fugitive Slave Law, 1850–1860* (Chapel Hill, 1968). I was able to arrive at a more accurate count of fugitive cases than these earlier lists because of the ongoing mass digitization of newspapers, which enabled me to verify cases across multiple papers and search hundreds of rural serials, options unavailable to Campbell. I used newspaper databases to identify cases that Campbell double counted by searching the surnames of slaveholders to confirm when accounts referred to the same cases. I compiled this revised list of renditions into a searchable database and interactive map, categorized by location and presiding federal officer. My database counts federal rendition hearings from the passage of the Fugitive Slave Act in September 1850 to the end of the calendar year 1860, excluding recaption or kidnapping episodes that occurred outside the law (when slaveholders simply seized freedom seekers on their own, without governmental assistance) and hearings before local justices of the peace brought under the 1793 fugitive slave law. Hereafter, I refer to the dataset as Wingert Caseload Database. This database also highlights the potential that digital technologies hold for the field more generally. Digital tools that make primary sources more accessible to scholars can also help facilitate interdisciplinary work. Other works that use digitized newspapers to examine slave flight before the Civil War include Robert Churchill's database of fugitive slave rescues from 1794 to 1861, William Kashatus's dataset of freedom seekers who passed through Philadelphia, which is based on William Still's vigilance committee records, and a database of fugitives started by Edward E. Baptist and William C. Block. See Robert H. Churchill, *The Underground Railroad and the Geography of Violence in Antebellum America* (New York, 2020), 233–42; William C. Kashatus, *William Still: The Underground Railroad and the Angel at Philadelphia* (Notre Dame, 2021), 221–77; and *Freedom on the Move: Rediscovering the Stories of Self-Liberating People; A Database of Fugitives from American Slavery,* https://freedomonthemove.org.

[4] For examples of earlier scholars assuming slaveholders exaggerated the extent of the fugitive slave crisis, see Campbell, *Slave Catchers;* and David M. Potter, *The Impending Crisis, 1848–1861,* completed and ed. by Don E. Fehrenbacher (New York, 1976), 135–38. For scholarship focusing on the pre–Civil War fugitive slave crisis, see R. J. M. Blackett, *The Captive's Quest for Freedom: Fugitive Slaves, the 1850 Fugitive Slave Law, and the Politics of Slavery* (New York, 2018); Stanley Harrold, *Border War: Fighting over Slavery before the Civil War* (Chapel Hill, 2010); Steven Lubet, *Fugitive Justice: Runaways, Rescuers, and Slavery on Trial* (Cambridge, Mass., 2010); Gordon S. Barker, *Fugitive Slaves and the Unfinished American Revolution: Eight Cases, 1848–1856* (Jefferson, 2013); R. J. M. Blackett, *Making Freedom: The Underground Railroad and the Politics of Slavery* (Chapel Hill, 2013); Eric Foner, *Gateway to Freedom: The Hidden History of the Underground Railroad* (New York, 2015); Angela F. Murphy, *The Jerry Rescue: The Fugitive Slave Law, Northern Rights, and the American Sectional Crisis* (New York, 2016); Andrew Delbanco, *The War before the War: Fugitive Slaves and the Struggle for America's Soul from the Revolution to the Civil War* (New York, 2018); John L. Brooke, *"There Is a North": Fugitive Slaves, Political Crisis, and Cultural Transformation in the Coming of the Civil War* (Amherst, Mass., 2019); Jonathan Daniel Wells, *Blind No More: African American Resistance, Free Soil Politics, and the Coming of the Civil War* (Athens, Ga., 2019); Churchill, *Underground Railroad and the Geography of Violence in Antebellum America;* and Alice L. Baumgartner, *South to Freedom: Runaway Slaves to Mexico and the Road to the Civil War* (New York, 2020). For estimates of the number of freedom seekers who escaped to northern states each year, see John Hope Franklin and Loren Schweninger, *Runaway Slaves: Rebels on the Plantation* (New York, 1999), 367n49.

assembled such an exhaustive list of fugitive cases through microfilm remains a remarkable achievement, but discrepancies in his methods leave room for important revision. Campbell double counted cases when newspapers provided slightly different versions of events, sometimes confused hearings in state and local courts for federal cases, and mislabeled numerous kidnapping episodes as governmental renditions. Campbell's total of 332 individual cases from 1850–1860 included 191 governmental rendition hearings, and he found that federal authorities remanded 157 of these 191 individuals (or 82 percent of people they arrested). Based on the high rendition rate, Campbell concluded that resistance in these northern locales was limited to "occasional outbursts" and that U.S. commissioners had "persistently" enforced the law. Although scholars now reject Campbell's claim about the limited extent of resistance, his depiction of U.S. commissioners' faithful approach to the letter of the law and generally effective operations remains widely accepted, despite the fact that Campbell provided little evidence aside from the high rendition rate to support his conclusion that federal officers "would go to almost any lengths" to assist slaveholders.[5]

My new dataset, the Wingert Caseload Database, challenges Campbell's faithful enforcement thesis by revising the case count and paying close attention to U.S. commissioners and their operations. The total number of federal cases was lower than Campbell indicated, though the proportion of people remanded was still high—there were 135 individual cases, and U.S. authorities reenslaved 107 people, or 79 percent. Campbell relied almost exclusively on quantitative data drawn from his caseload statistics to support his conclusions. However, new qualitative evidence such as on the course and duration of rendition proceedings and how U.S. commissioners negotiated with slaveholders and antislavery attorneys, reveals compelling patterns in the law's operation that the rendition rate alone obscures. For example, just four aggressive U.S. commissioners accounted for half of all renditions nationwide, and the vast majority of arrests of alleged fugitives under the law occurred at only a few sites along the border. These findings demonstrate that U.S. commissioners were less numerous and more responsive to local pressures than scholars have generally assumed. This new dataset also positions us to ask more precise questions about why the fugitive crisis assumed such force during the 1850s.[6]

[5] For Campbell's appendix of fugitive slave cases, see Campbell, *Slave Catchers,* 199–207. Daniel Farbman pinpoints the number at 159 federal cases, but, like Campbell, he double counted several cases and includes instances where warrants were issued but no arrest was made. See Daniel Farbman, "Resistance Lawyering," *California Law Review,* 107 (Dec. 2019), 1896–97nn63–64. The 82% figure is found in Campbell, *Slave Catchers,* 207. For the "occasional outbursts" and "persistently" quotations, see *ibid.*, 79, 168–69. For works that echo Campbell's interpretation of faithful enforcement, see Potter, *Impending Crisis,* completed and ed. by Fehrenbacher, 138; James M. McPherson, *Battle Cry of Freedom: The Civil War Era* (New York, 1988), 80, 83–88; William W. Freehling, *The Road to Disunion,* vol. I: *Secessionists at Bay, 1776–1854* (New York, 1990), 536; Lubet, *Fugitive Justice,* 5–6; and Foner, *Gateway to Freedom,* 134–35. For critiques of Campbell, see Robert H. Churchill, "Fugitive Slave Rescues in the North: Toward a Geography of Antislavery Violence," *Ohio Valley History,* 14 (Summer 2014), 51–75; and Matthew Pinsker, "After 1850: Reassessing the Impact of the Fugitive Slave Law," in *Fugitive Slaves and Spaces of Freedom in North America,* ed. Damian Alan Pargas (Gainesville, 2018), 93–112. Campbell's monograph was published not long after Larry Gara's *The Liberty Line,* which argued that white northerners' involvement in the Underground Railroad had been greatly exaggerated. See Larry Gara, *The Liberty Line: The Legend of the Underground Railroad* (Lexington, Ky., 1961). Campbell did not cite Gara, but at the time that Campbell was writing, the dominant impulse in the historiography was to downplay the extent of resistance. For the assertion that federal officers "would go to almost any lengths," see Campbell, *Slave Catchers,* 168.

[6] Wingert Caseload Database. R. J. M. Blackett has provided a more nuanced interpretation of U.S. commissioners than Campbell, but Blackett ultimately concludes that "commissioners were men with powers that could only be curtailed by constant public protests and pressure from the black community and their abolitionist allies." See Blackett, *Captive's Quest for Freedom,* 52–64, esp. 64. I certainly agree that some U.S. commissioners fit this description, but I build on Blackett's work with new case load statistics to show how a few aggressive enforcers accounted for the vast majority of renditions.

The fugitive crisis alarmed slaveholders because it revealed that federal criminal law enforcement still largely depended on local compliance, given that most U.S. officers were members of the communities in which they operated and were keenly attuned to their neighbors' attitudes. As federal authorities struggled to recruit northern men to enforce the new law, slaveholders started to question the capacity of the U.S. government to protect slavery within a federal system that allowed for considerable regional variation at the state and local levels.

Slaveholders were troubled because for decades they had helped develop a powerful central state to promote slavery through domestic and foreign policy. Although antebellum Americans seldom came into direct contact with the federal government and most governance was conducted at the state and local levels, a vigorous literature has moved past assumptions about a "weak" federal state and illuminated how the U.S. government exerted power, even as its influence was concealed by the scaffolding of federalism. Slaveholders dominated the White House and cabinet posts and put federal power to work opening up new slave territory through westward expansion and Indian removal. Scholars have persuasively shown that, rather than acting as a weight around the U.S. government's neck, federal protections for slavery accelerated the development of the U.S. military, navy, federal agencies, and even the government's coercive powers over its citizens. Both slaveholders and their opponents came to believe that slavery could not survive without federal support. Scholars have begun to characterize the political crisis of the 1850s as a break from earlier battles over defining the scope and limits of federal power to a contest over control of the all-important central state, with proslavery and antislavery forces advancing competing visions of the federal government's proper relation to slavery, a struggle that centered on whether the U.S. Constitution recognized property in man. Slaveholders insisted that the Constitution expressly acknowledged slaves as property under federal law, not just under Southern state codes, making slavery national and obligating the federal government to protect slave property everywhere in the country. Antislavery politicians disagreed and claimed that the Constitution recognized slaves as persons, not property, under federal law, meaning that freedom was national and slavery existed only where state laws allowed it.[7]

Although the U.S. Constitution remained open to interpretation on the issue of whether slaves were property or persons under federal law, slaveholders advanced a proslavery

[7] For an introduction to scholarship that moves past assumptions of a "weak" federal state, see William J. Novak, "The Myth of the 'Weak' American State," *American Historical Review,* 113 (June 2008), 752–72; Brian Balogh, *A Government Out of Sight: The Mystery of National Authority in Nineteenth-Century America* (New York, 2007); Max M. Edling, *A Revolution in Favor of Government: Origins of the U.S. Constitution and the Making of the American State* (New York, 2003); and Richard R. John, *Spreading the News: The American Postal System from Franklin to Morse* (Cambridge, Mass., 1995). On slaveholders' influence over the antebellum federal government, the classic account is Don E. Fehrenbacher, *The Slaveholding Republic: An Account of the United States Government's Relations to Slavery,* completed and ed. by Ward M. McAfee (New York, 2001). For scholars showing the connections between federal slavery protections and growing federal power, see David F. Ericson, *Slavery in the American Republic: Developing the Federal Government, 1791–1861* (Lawrence, 2011); Matthew Karp, *This Vast Southern Empire: Slaveholders at the Helm of American Foreign Policy* (Cambridge, Mass., 2016); and Gautham Rao, "The Federal *Posse Comitatus* Doctrine: Slavery, Compulsion, and Statecraft in Mid-Nineteenth-Century America," *Law and History Review,* 26 (Spring 2008), 1–56. See also Gautham Rao, "The New Historiography of the Early Federal Government: Institutions, Contexts, and the Imperial State," *William and Mary Quarterly,* 77 (Jan. 2020), 97–128. On the 1850s as a period that centered on debates over constitutional property in man, see Steven Hahn, *The Political Worlds of Slavery and Freedom* (Cambridge, Mass., 2009), 15–16; James Oakes, *Freedom National: The Destruction of Slavery in the United States, 1861–1865* (New York, 2013); Sean Wilentz, *No Property in Man: Slavery and Antislavery at the Nation's Founding* (Cambridge, Mass., 2018); and James Oakes, *The Crooked Path to Abolition: Abraham Lincoln and the Antislavery Constitution* (New York, 2021).

reading of the fugitive slave clause that gained broad purchase among antebellum jurists, and by the 1850s the federal government's actions increasingly embraced the proslavery interpretation. The ambiguously phrased clause recognized slaveholders' right to recaption, the common law principle that allowed property owners to locate and retake their stolen possessions outside of any formal legal process. But the clause was located in Article IV, suggesting that fugitive cases were a matter of comity (within the context of U.S. federalism, the willingness of one state to respect the laws of another out of good faith, even though they are not legally bound to do so) and that northern states could regulate renditions, the official governmental process of returning a suspect. In 1793, Congress passed the first national fugitive slave law to specify procedures for contested renditions, but this solution proved unsatisfactory to slaveholders because it left the process in the hands of northern states. Over the ensuing decades, slaveholders claimed that the clause recognized slaves as a federally protected form of property, and absent this concession, southern delegates would have bolted from the constitutional convention. Slaveholders argued that recaption was also a federally protected right, so whenever slaveholders pursued runaways across state lines the laws of their home states traveled with them, including both a recognition of slaves as property and the presumption that all Black persons were slaves, placing the burden of proof on the accused runaways. The 1850 Fugitive Slave Act leaned heavily toward the proslavery position, making the federal government responsible for renditions and prohibiting accused freedom seekers from testifying.[8]

Even as slaveholders tightened their grip on the federal government, the antislavery vigilance movement was making inroads in northern states. Earlier scholarship that dismissed the Underground Railroad as a myth and claimed that freedom seekers did not benefit from any centrally organized assistance has been countered by compelling new works. This new scholarship reveals a sophisticated network of local Black-led vigilance committees carrying out the work of "practical abolition," the day-to-day resistance involving self-protection, organizing and fund raising, and legal action against slaveholders. Free Black communities may have looked inward for support, but they did not retreat from antebellum politics. Instead, as scholars have shown, Black northerners staked limited claims to protection under northern state laws to court the support of a white electorate still overwhelmingly opposed to immediate abolition and racial equality but also alarmed by an encroaching federal government controlled by the "slave power" that seemed to threaten their civil liberties. One northern state after another passed antikidnapping statutes known as personal liberty laws, guaranteeing African Americans basic legal protections and at times even giving the appearance of a presumption of freedom, even though most northern courts adhered to the presumption of slavery in fugitive cases.

[8] U.S. Const., art. IV, sec. 2, cl. 3. On the fugitive slave clause, its implementation, and its changing interpretation by slaveholders, see Fehrenbacher, *Slaveholding Republic,* completed and ed. by McAfee, 216–21, 244; and Wilentz, *No Property in Man,* 193–200. Some scholars have rightly observed that antislavery northerners never accepted the proslavery interpretation of the fugitive slave clause as official policy and continued to advance the freedom national doctrine and pass new personal liberty laws as if nothing had changed. See Oakes, *Freedom National;* Pinsker, "After 1850," 96–97; and Oakes, *Crooked Path to Abolition,* 11–12. I agree that during the 1850s, many northerners considered the federal government a tool of the "slave power" and regarded any proslavery federal policies as illegitimate. But as Chandra Manning has noted, despite Republicans' indignation, the actual power of the federal government resided with proslavery administrations and the proslavery majority on the Taney court, all of whom made painfully clear that slavery national was the policy of the federal government so long as they were at the helm. See Chandra Manning, *Troubled Refuge: Struggling for Freedom in the Civil War* (New York, 2016), 179–81, 340n4. On the 1793 fugitive slave law, see An Act respecting fugitives from justice, and persons escaping from the service of their masters, chap. 7, 1 Stat. 302 (1793).

Still, slaveholders alleged that the delays created by these laws obstructed their right to recaption. The U.S. Supreme Court agreed and in 1842 declared many personal liberty laws unconstitutional in *Prigg v. Pennsylvania.* The ruling also stipulated that the federal government, not individual states, was responsible for enforcing the 1793 law. Northern legislators responded with a new round of personal liberty laws in the late 1840s designed to frustrate recaption efforts by withdrawing all assistance to slaveholders, barring state officials from aiding claimants, and declaring state jails off limits for detaining runaways. The 1850 Fugitive Slave Act was a reaction to vigilance successes in northern states, where it seemed to slaveholders that their property rights in slaves and their vision of slavery as a nationally protected institution were under attack.[9]

As the fugitive crisis intensified during the 1850s, Black northerners' most persistent and effective stratagem against the new Fugitive Slave Act was not storming federal hearing rooms, but rather demanding due process inside of them. While recent interpretive currents have situated Black northerners alongside enslaved southerners as key causal actors in the coming of the Civil War, much of this scholarship emphasizes violence. To be sure, Black abolitionists' strategic shift to using force in the decade before the Civil War marked a critical escalation in the fight against slavery, but the historiographical focus on violence has obscured other modes of resistance that were more common and surprisingly effective. My new database of cases reveals that even as Black militancy increased during the 1850s, legal challenges remained the primary means of opposing renditions under the new Fugitive Slave Act. The first move by Black vigilance operatives to initiate these challenges was to notify antislavery lawyers about pending cases and mobilize local communities to demand due process. Violent resistance did not replace the tradition of "practical abolition" but instead grew out of it. An increasing number of historians have started to recognize that the two strategies were related. Many northerners also embraced what scholars have called "popular constitutionalism"—taking it upon themselves to interpret the nation's founding document instead of ceding authority to the Taney court and its proslavery readings of the U.S. Constitution. Widespread hostility to the slave power and a growing rejection of proslavery federal policies as illegitimate created the preconditions for open defiance, and extralegal acts pushed toward a new legal reality. During the

[9] Notable works on vigilance committees include Gary Collison, *Shadrach Minkins: From Fugitive Slave to Citizen* (Cambridge, Mass., 1997); Stanley Harrold, *Subversives: Antislavery Community in Washington, D.C., 1828–1865* (Baton Rouge, 2003); Graham Russell Gao Hodges, *David Ruggles: A Radical Black Abolitionist and the Underground Railroad in New York City* (Chapel Hill, 2010); and Foner, *Gateway to Freedom.* On the political engagement of Black northerners, see Stephen Kantrowitz, *More than Freedom: Fighting for Black Citizenship in a White Republic, 1829–1889* (New York, 2012); Andrew K. Diemer, *The Politics of Black Citizenship: Free African Americans in the Mid-Atlantic Borderland, 1817–1863* (Athens, Ga., 2016); Wells, *Blind No More;* Christopher James Bonner, *Remaking the Republic: Black Politics and the Creation of American Citizenship* (Philadelphia, 2020); Kate Masur, *Until Justice Be Done: America's First Civil Rights Movement, from the Revolution to Reconstruction* (New York, 2021); and Van Gosse, *The First Reconstruction: Black Politics in America from the Revolution to the Civil War* (Chapel Hill, 2021). The classic work on personal liberty laws remains Thomas D. Morris, *Free Men All: The Personal Liberty Laws of the North, 1780–1861* (Baltimore, 1974). The latest scholarship on gradual emancipation in the North has underscored the many gradations of unfreedom that emancipation statutes created, and it has pushed back against the notion of a linear trajectory from enslavement to freedom, complicating Thomas Morris's claim that personal liberty laws established "a clear-cut and all-important presumption of freedom." See Morris, *Free Men All,* 6. As Hendrik Hartog has shown, even after New Jersey passed its gradual emancipation act in 1804, the state supreme court reversed course and reestablished a presumption of slavery in 1821, and as late as the 1830s some courts in the state continued to presume Black men under the age of 25 to be bound to some form of unfree labor. See Hendrik Hartog, *The Trouble with Minna: A Case of Slavery and Emancipation in the Antebellum North* (Chapel Hill, 2018), 118–33. On *Prigg v. Pennsylvania* and the new personal liberty laws, see Morris, *Free Men All,* 107–29. *Prigg v. Pennsylvania,* 41 U.S. 539 (1842).

1850s, Underground Railroad activists, Black and white, increasingly challenged federal authority, confident many white northerners would at least sympathize with, if not outright condone, their illegal acts against a federal government widely perceived as corrupt and in the pocket of slaveholders.[10]

Key to the workings of the new Fugitive Slave Act were the U.S. commissioners tasked with enforcing it. But who filled these positions, and how effectively did they carry out their duties? First, we should recognize that the law did not actually create the post of U.S. commissioner, contrary to what many historians have claimed. The office dated back to 1793 (and was unrelated to earlier fugitive slave legislation), and Congress had since then gradually increased U.S. commissioners' remit from taking bail and affidavits to adjudicating a wide array of federal crimes, including counterfeiting, mail robbery, maritime desertions, and slave trading. When it came time to craft the new fugitive slave code, proslavery politicians distrustful of northern state officials turned to the federal payroll for dependable officers. But the federal work force numbered just 26,274 civilian employees, roughly three-quarters of whom worked for the U.S. postal system. South Carolina senator Andrew Butler initially floated a plan that would have required all federal appointees—postmasters, customs collectors, court clerks, commissioners, and judges—to aid slaveholders, though eventually he and Virginia senator James Mason, who introduced the bill, settled on the idea of expanding the U.S. commissioner system. The 1850 law marked the most sweeping expansion of commissioners' powers and encouraged U.S. circuit courts to hire additional commissioners to handle the expected surge of fugitive cases. This nuance is critical because it highlights that most U.S. commissioners in office when the 1850 law was passed were holdovers who had been appointed during the 1840s. Some resigned rather than carry out their new fugitive rendition duties, but others, such as one of Boston's long-serving U.S. commissioners, Charles Sumner, defiantly remained in office and ignored the new dictates. Another incumbent, U.S. commissioner Samuel Carpenter in Cincinnati, publicly pronounced the new law unconstitutional while averring his intention to stay in office and simply refuse to issue warrants for fugitives. Many federal commissioners harbored grave doubts about the 1850 law or, like Sumner and Carpenter, were openly opposed to it.[11]

[10] For works that show Black northerners as key causal actors but emphasize violence, see Harrold, *Border War;* Kellie Carter Jackson, *Force and Freedom: Black Abolitionists and the Politics of Violence* (Philadelphia, 2019); and Churchill, *Underground Railroad and the Geography of Violence in Antebellum America.* Several recent exceptions to this emphasis on violence in the scholarship include Sarah L. H. Gronningsater, "'On Behalf of His Race and the Lemmon Slaves': Louis Napoleon, Northern Black Legal Culture, and the Politics of Sectional Crisis," *Journal of the Civil War Era,* 7 (June 2017), 206–41; and Farbman, "Resistance Lawyering," 1877–1954. For evidence that legal challenges were still the primary means of opposing renditions, see Wingert Caseload Database. I was able to verify that at least two-thirds of freedom seekers had legal representation during their rendition hearings. For historians recognizing the connections between and importance of both violent resistance and "practical abolition," see Kantrowitz, *More than Freedom,* 179; Bonner, *Remaking the Republic,* 96; and Matthew Karp, "The People's Revolution of 1856: Antislavery Populism, National Politics, and the Emergence of the Republican Party," *Journal of the Civil War Era,* 9 (Dec. 2019), 524–45. On "popular constitutionalism," see Larry D. Kramer, *The People Themselves: Popular Constitutionalism and Judicial Review* (New York, 2004); and Michael F. Conlin, *The Constitutional Origins of the American Civil War* (New York, 2019).

[11] Scholarship asserting that the 1850 Fugitive Slave Act created the U.S. commissioner post include McPherson, *Battle Cry of Freedom,* 80; and Foner, *Gateway to Freedom,* 124. The 26,274 figure comes from *Historical Statistics of the United States: Colonial Times to 1970* (2 vols., Washington, 1975), II, 1103; and John, *Spreading the News,* 3. On the post of U.S. commissioner, see An Act in addition to the Act, entitled "An Act to establish the Judicial

Butler and Mason's new law also faced another problem: federal appointees were not immune to local pressures. Even though they answered to federal authorities, U.S. commissioners did not receive a fixed salary but were paid on a case-by-case basis, so most continued their private law practices or kept campaigning for political offices. Some state constitutions prohibited individuals from serving in state offices while also holding federal appointments, and even where formal restrictions such as these were not in place, many aspiring officeholders resigned their low-paying commissionerships to avoid perceived conflicts of interest. In October 1853, U.S. commissioner Henry Asbury in Quincy, Illinois, the only active federal enforcer in southern Illinois, resigned as commissioner to run for county judge, hoping to assuage the "unkind feelings" some local residents held toward him "on account of the jurisdiction conferred upon him by the new Fugitive Slave Law." Where the federal law was unpopular, enforcing it could become a political and personal liability, prompting resignations from incumbents and discouraging potential appointees.[12]

Right from the beginning, federal courts struggled to fill commissionerships. In Pennsylvania, U.S. Supreme Court justice Robert Grier attempted to coax lawyers he met while riding circuit to accept appointments, but most declined, citing fears of "injury to their profession, property, or persons." Many prospective commissioners, such as the thirty-four-year-old Pennsylvania lawyer James Bonham, weighed "whether the appointment would be a desirable one, or would pay for the trouble imposed." Bonham decided it would and accepted the post, but most white northerners concluded that the trouble outweighed the benefits. Across the entire eastern district of Pennsylvania, only six new U.S. commissioners were named in the months after the law's enactment, though even these meager gains were offset by the resignations of multiple incumbents. Elsewhere, officials in the southern district of New York simply gave up trying to name new U.S. commissioners and issued a dubious order in October 1850 elevating all circuit and district court clerks to "act as commissioners." The smattering of new appointees were mostly ambitious Democrats in their thirties who planned to use commissionerships as springboards to political careers, though many came to regret their gamble. In total, only about forty U.S. commissioners handled fugitive cases across the entire decade. By comparison,

Courts of the United States," chap. 22, 1 Stat. 333 (1793); An Act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States, chap. 25, 2 Stat. 679 (1812); An Act in addition to an act, entitled "An act for the more convenient taking of affidavits and bail in civil causes, depending in the courts of the United States," chap. 30, 3 Stat. 350 (1817); An Act further supplementary to an act entitled, "An act to establish the judicial courts of the United States," passed the twenty-fourth of September, seventeen hundred and eighty-nine, chap. 188, 5 Stat. 516 (1842); and Charles A. Lindquist, "The Origin and Development of the United States Commissioner System," *American Journal of Legal History,* 14 (Jan. 1970), 6–8. For Andrew Butler's original bill requiring all federal appointees to aid slaveholders, see U.S. Congress, Senate, Committee on the Judiciary, *To provide for the more effectual execution of the third clause of the second section of the fourth article of the constitution of the United States,* 31 Cong., 1 sess., Jan. 16, 1850, p. 15. Although U.S. circuit and district court judges could (and occasionally did) handle claims, the new law placed the brunt of the case load upon U.S. commissioners. On Charles Sumner, see D. A. Harsha, ed., *The Life of Charles Sumner: With Choice Specimens of His Eloquence, a Delineation of His Oratorical Character, and His Great Speech on Kansas* (New York, 1856), 88–90; and David Donald, *Charles Sumner and the Coming of the Civil War* (New York, 1960), 69–70. On Samuel Carpenter, see Sam S. Carpenter, "The Fugitive Slave Law," *Cincinnati Gazette,* reprinted in *New York Daily Times,* July 4, 1854, p. 1.

[12] For officers who resigned their commissionerships to avoid conflicts of interest, see J. Ellis Bonham to George Plitt, Jan. 7, 1851, entry 42-E-133, box 1, Appointment Papers, Records of the U.S. District Court for the Eastern District of Pennsylvania, Records of the District Courts of the United States, RG 21 (National Archives, Philadelphia, Pa.); and Alexander B. Anderson to John C. Grier and John K. Kane, Oct. 10, 1851, *ibid.* On Commissioner Henry Asbury, see "County Judge," *Quincy (IL) Whig,* Oct. 31, 1853.

Virginia senator James Mason originally wanted one to three federal commissioners for every northern county.[13]

Slaveholders traveling north after fugitives struggled to find U.S. commissioners, and those they located were often unsure of their new powers or unwilling to issue warrants. In September 1850, Tennessee slave master Thomas Chester went to Detroit only to be turned away by U.S. commissioner Samuel Watson. At first, Watson claimed to have pressing "private engagements," before admitting that "public sentiment was against the law" and that he stood to lose both "pecuniarily, and in character" should he issue a warrant. Back in Nashville, Chester warned white southerners about the "treachery" and "rascality" of federal officials and advised slaveholders to seize freedom seekers on their own through recaption. Weeks later in November, Kentucky slaveholder John Campbell combed the southern Ohio countryside for hours but "could find no deputy marshal or commissioner in Brown county." He traveled over fifty miles to Cincinnati before encountering a U.S. commissioner, but the officer "expressed doubts as to his authority." In May 1854, two white Kentuckians piled into the Columbus, Ohio, office of U.S. commissioner Phineas Wilcox. Visibly flustered, Wilcox told the claimants to seize the runaways on their own, "without process," before locking his office, mounting his horse, and galloping out of town. When Wilcox eventually returned from his dramatic ride, he announced his resignation (he later claimed his trip was to inspect some land). Another federal commissioner in Buffalo, New York, Dennis Bowen, rebuffed a group of Virginia slaveholders who approached him in 1855, refusing "to aid them in any manner in preparing their papers." In 1859 a Maryland slave catcher paid a visit to attorney Thomas Biddle in Carlisle, Pennsylvania, only to learn that the onetime U.S. commissioner had resigned. Senator James Mason denounced "the evasion and delays of the officers executing the law" and recommended that the president be given executive authority to punish U.S. commissioners with "instantaneous dismissal" for evincing "the least disposition to evade the law." But Mason's proposal would have only further thinned the ranks of federal commissioners.[14]

[13] For the "injury to their profession" quotation, see "Laying Down the Law," *Washington National Intelligencer,* Nov. 30, 1850, p. 3. For the John Bonham quotation, see Bonham to Kane, Oct. 1, 1850, entry 42-E-133, box 1, Appointment Papers, Records of the District Courts of the United States (National Archives, Philadelphia); and Bonham to Plitt, Jan. 7, 1851, *ibid.* After handling one case, Bonham resigned three months later to run for the state legislature. For records concerning new and resigning commissioners in the aftermath of the law, see entries for Sept. 18, Oct. 7, Oct. 30, Nov. 4, Nov. 26, 1850, Jan. 9, 1851, pp. 149–85, Minutes, vol. June 1849–May 1851, box 5, entry PH527, Records of the U.S. Circuit Court of the Eastern District of Pennsylvania, Records of the District Courts of the United States (National Archives, Philadelphia). For an example of a court clerk acting as a commissioner, see "The Case of Henry Long," *New York National Anti-Slavery Standard,* Jan. 2, 1851, pp. 2–3; and *The Annual Report of the American and Foreign Anti-Slavery Society, Presented at New-York, May 6, 1851; with the Addresses and Resolutions* (New York, 1851), 26. For data on the new appointees and the number of commissioners, see Wingert Caseload Database. For James Mason's original bill, see "Recapture of Fugitive Slaves—Messrs. Mason and Dayton," *Appendix to the Congressional Globe,* 31 Cong., 1 sess., Aug. 19, 1850, p. 1582. Mason was bargained down to more ambiguous verbiage in the final version of the law, specifying that circuit courts "shall from time to time enlarge the number of the commissioners" to afford slaveholders "reasonable facilities." An Act to amend, and supplementary to, the Act entitled "An Act respecting Fugitives from Justice, and Persons escaping from the Service of their Masters," approved February twelfth, one thousand seven hundred and ninety-three, chap. 60, 9 Stat. 462 (1850).

[14] On the case of Thomas Chester and Samuel Watson, see *Nashville American,* Dec. 14, 1850, reprinted in *Columbus (MS) Southern Standard,* Feb. 1, 1851, p. 1. Tennessee senator Hopkins Turney alluded to the case during senate debates. See "The Fugitive Slave Law—Messrs. Turney and Clemens," *Appendix to the Congressional Globe,* 31 Cong., 2 sess., Feb. 22, 1851, p. 307. On John Campbell, see "Letter from ex-Governor Metcalfe, of Kentucky," *Washington Semi-Weekly Union,* Jan. 23, 1851, p. 4. On Phineas Wilcox, see "United States Commissioner Opposed to the Rendition of Fugitive Slaves," *Cincinnati Gazette,* June 4, 1854, quoted in *Washington Sentinel,* June 9, 1854,

Although most U.S. commissioners were reluctant to take up fugitive cases, two aggressive enforcers accounted for nearly 40 percent of all renditions nationwide by the end of 1854. Their ruthless tactics and brazen partiality toward slaveholders have skewed scholars' views of enforcement more broadly, which is not surprising given that antislavery presses concentrated much of their ire on the two officers. In Philadelphia, U.S. commissioner Edward Ingraham, a noted bibliophile and stamp collector, worked with off-duty city constables, firemen, and the notorious slave catcher George Alberti to remand twelve individuals from 1850 until Ingraham's death in November 1854. At the state capital in Harrisburg, U.S. commissioner Richard McAllister assembled a formidable force of borough constables and slave catchers that reenslaved fifteen people from 1850 through 1852. McAllister cultivated a reputation as "a friend of Southern rights" and was even accused of ghostwriting letters to Maryland newspapers to attract claimants. One missive published in Baltimore promised that "no southern man need hesitate to go to Harrisburg in pursuit of his constitutional rights, so long as the fugitive law is administered by the present U.S. Commissioner," because his "fearless and efficient body of officers" would steamroll over any "mob violence."[15]

Ingraham and McAllister were fearsome, but they were not representative. Most fugitive cases were processed at a handful of offices near the border manned by aggressive U.S. commissioners such as McAllister, where federal and nonstate actors cooperated to form formidable slave-catching operations. Elsewhere, the law was much closer to a dead letter.

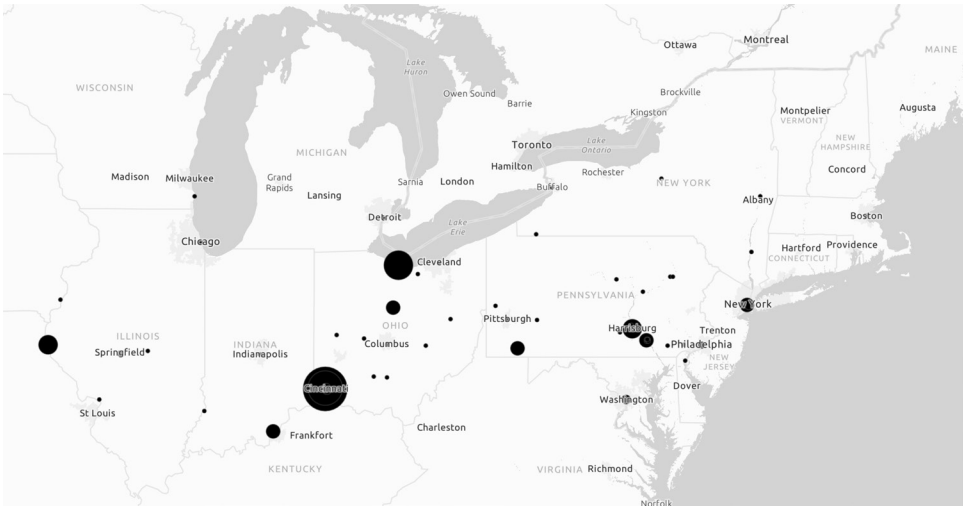
The local pressures that stymied other federal commissioners eventually even got to McAllister, a proslavery Democrat operating less than sixty miles from the Mason-Dixon line. Once he began to aggressively enforce the 1850 law, his standing among his neighbors plummeted, he was ostracized within his own church, his private practice went bankrupt, and African American activists nearly burned down his house. When incoming president Franklin Pierce snubbed McAllister's pleas for a patronage post, the once-bombastic federal officer resigned in disgust, furious that the Democratic party did not "indemnify me for my loss and reward me for services which no other man in the state would render."[16]

With McAllister broke and Ingraham dead, the locus of enforcement shifted west during the second half of the decade. From 1855 to 1860, 60 percent of renditions occurred in Cincinnati, where South Carolina–born U.S. commissioner Edward Newhall and his

p. 2; "To the Editors Ohio State Journal," *Columbus Ohio State Journal,* June 5, 1854, p. 2; and William Alexander Taylor, *Centennial History of Columbus and Franklin County, Ohio* (2 vols., Chicago, 1909), II, 686–90. On Dennis Bowen, see "The Fugitive Slave Law a 'Dead Letter'—A Case in Point," *Romney (VA) Intelligencer,* reprinted in *Richmond (VA) Whig,* Sept. 7, 1855, p. 4; and *Buffalo (NY) Morning Express,* Sept. 19, 1855, p. 2. On Thomas Biddle, see "Kidnapping in Pennsylvania," *Rochester (NY) Frederick Douglass' Monthly,* 2 (July 1859), 108–9. For the Mason quotations, see "The Fugitive Slave Law—Messrs. Clay, Mason, and Dickinson," *Appendix to the Congressional Globe,* 31 Cong., 2 sess., Feb. 21, 1851, p. 295.

[15] Wingert Caseload Database. Richard McAllister remanded 15 people and Edward Ingraham 12, out of a nationwide total of 69 people who were reenslaved by the U.S. government from 1850 to 1854. On McAllister as a "friend of Southern rights," see Richard McAllister to E. Louis Lowe, May 5, 1851, folder 21, box 19, Governor's Papers (Maryland State Archives, Annapolis). On allegations that McAllister ghostwrote the *Baltimore Sun* letter, see "The Slave Cases," *Harrisburg (PA) Pennsylvania Telegraph,* Oct. 8, 1851, pp. 2–3. For the quotations, see "The Harrisburg Slave Case," *Baltimore Sun,* Sept. 30, 1851, p. 4.

[16] McAllister to Simon Cameron, July 25, 1853, box 1, Cameron Family Papers, MG 500 (Historical Society of Dauphin County, Harrisburg, Pa.). McAllister later bragged to Illinois senator Stephen Douglas that "my house [was] set on fire on account of my energetic execution of that law." See McAllister to Stephen Douglas, Nov. 15, 1857, folder 9, box 9, series I: Senate and Constituent Correspondence, Stephen A. Douglas Papers (Hanna Holborn Gray Special Collections Research Center, University of Chicago Library, Chicago, Ill.).



After the passage of the 1850 Fugitive Slave Act, arrests of runaway slaves were not as widespread as proslavery lawmakers had hoped. Instead, as this map shows, these arrests were concentrated around a few enforcement hot spots near the border, where federal commissioners collaborated with off-duty local constables and slave catchers. *Map based on Wingert Caseload Database, created using ArcGIS software and Light Gray Canvas Basemap, Esri. An interactive version of this map may be accessed at https://housedivided.dickinson.edu/sites/ugrr/special-resources/maps/1850-fugitive-slave-act/.*

deputies used brutal tactics to arrest freedom seekers. The other enforcement hot spot in the latter half of the decade was Springfield, Illinois, where U.S. commissioner Stephen Corneau, neighbor and political ally of future president Abraham Lincoln, heard cases just steps away from Lincoln's home. Although a Republican, Corneau was a conservative to whom slaveholders frequently turned for warrants when other federal commissioners proved unwilling. But even in the few places such as Springfield and Cincinnati where renditions occurred, the protracted struggles inside federal hearing rooms only deepened slaveholders' concerns about the capacity of the federal government to protect their property rights in slaves.[17]

The final outcomes of rendition hearings almost always favored slaveholders, but the proceedings rarely hewed to the draconian intent of proslavery lawmakers. Antislavery vigilance committees maintained informal, around-the-clock stakeouts of federal offices to mobilize community support at a moment's notice. "We know that their 'Committees of Vigilance' are in and around the Court House daily," a nervous U.S. deputy marshal in Boston confessed to one impatient slaveholder. When Black operatives noticed

[17] The 60% figure comes from Wingert Caseload Database. There were 38 renditions nationwide from 1855–1860, and 22 of those cases were heard by U.S. commissioners in Cincinnati: Edward Newhall (11), John Pendery (7), Charles C. Browne (3), and Charles B. Collier (1). "Edward Newall," family 479, Ward 15, Manuscript Population Schedules, Hamilton County, Cincinnati, Ohio, Eighth Census of the United States, 1860, National Archives Microfilm Publication M977, available at Ancestry.com. Slaveholders pursuing freedom seekers to Chicago frequently went to Stephen Corneau for warrants instead of Chicago's U.S. commissioner, Philip A. Hoyne. See "The Union Again Threatened," *Chicago Tribune,* Nov. 13, 1860, p. 1; "The Last Chicago Slave Case," *New York Times,* April 6, 1861, p. 5. On Corneau's relationship with Abraham Lincoln, see Michael Burlingame, *Abraham Lincoln: A Life* (2 vols., Baltimore, 2008), I, 206, 811.

unusual activity, they rushed to alert antislavery lawyers, who demanded delays to gather witnesses and evidence, scrutinized slaveholders' affidavits to raise doubts about whether the physical description matched their client, and insisted upon statutory proof that slavery existed in the claimant's state. Lawyers' efforts were aided by the biracial crowds that congregated inside cramped hearing rooms and overflowed into antechambers, reminding U.S. commissioners that many in their local communities expected a more deliberate process. Even one of the most aggressive U.S. commissioners, Philadelphia's Edward Ingraham, felt the pressure to keep up the appearance of due process in his hearing room, all while he privately seethed over antislavery lawyers' tactics. "I have been heretofore much embarrassed, and Claimants much delayed," Ingraham admitted to Missouri governor Sterling Price. So frustrated was Ingraham that he set about collecting copies of southern state statute books that would help him more quickly quash objections raised by antislavery lawyers. No statutory provision required Ingraham to admit antislavery lawyers or entertain arguments that alleged runaways had any right to mount a defense—in fact, the spirit of the law suggested quite the opposite. But Black northerners effectively paired the covert intelligence-gathering tactics they had long used to combat slave catchers along the Underground Railroad with public support for due process to bring pressure to bear inside federal hearing rooms.[18]

These strategies amounted to more than courtroom theatrics. Black northerners and their white allies transformed the way U.S. commissioners conducted hearings, while effectively dissuading many slaveholders from ever heading north. Two-thirds of accused freedom seekers enjoyed legal representation, and Black witnesses testified in at least 10 percent of hearings. Black activists' insistence on due process hit slaveholders' pocketbooks. In September 1850, a Virginia slaveholder spent $1,450 to recover two freedom seekers in Harrisburg, Pennsylvania, whom he then sold for $1,500; a Kentucky slaveholder paid $750 after days of legal proceedings at Indianapolis in 1857 to reenslave John Weston; and Charles Butler, a slave master from Jefferson County, Virginia, reportedly shelled out upward of $1,100 to reenslave Moses Horner from Philadelphia in March 1860. With slaveholders nearly certain to encounter "delays, difficulties, annoyances, expenses, and . . . personal dangers," Arkansas senator Solon Borland asked, "what southern man will pursue . . . his fugitive slave?" It is impossible to quantify the number of slaveholders who read about expensive renditions and decided to stay put, but Borland found an indication in the low overall case count. "While so many fugitives are in the free States, so few have been pursued, and still fewer recovered," he complained. To be sure, the concessions Black northerners pried from U.S. commissioners were far from unqualified triumphs. Antislavery attorneys were recognized in these hearings only "as an act of courtesy," as U.S. commissioner Stephen Corneau sharply reminded one runaway's defense team. Most cases still resulted in renditions with no shortage of tragic consequences, as

[18] For the quotation from the U.S. deputy marshal in Boston, see Patrick Riley to F. C. Riddick, Jan. 24, 1851, box 1, Richard H. Riddick Papers, 1840–1879 (Rubenstein Library, Duke University, Durham, N.C.). For Ingraham's admission, see Edward D. Ingraham to Sterling Price, Nov. 8, 1853, Governors Papers, RG 3.11 (Missouri State Archives, Jefferson City), accessible at Missouri Digital Heritage, https://mdh.contentdm.oclc.org/digital/collection/msa/id/23825. Recent scholarship on early U.S. state formation has argued that the federal government was effective at shaping the lives of antebellum Americans precisely because it was "hidden in plain sight," enabling state expansion while skirting widespread distrust of centralized authority. See Edling, *Revolution in Favor of Government,* 219–25; and Balogh, *Government Out of Sight,* 380. For U.S. commissioners, it was a problem that vigilance committees drew unwanted attention to their operations and made fugitive slave cases highly visible to the northern public.

evinced by Maryland runaway Abby Franklin's "weeping eyes and gloomy looks of desperation," which haunted onlookers in Harrisburg, as the manacled mother of two awaited the train that would transport her and her husband back into slavery, minus their infant child. Although vigilance committees lost far more cases than they won, Black activists forced claimants to pay dearly for renditions. Even the law's principal architect, Senator Mason, conceded that slaveholders "have not a law under which they can claim their slaves, unless it be done at the full cost of the slave."[19]

By no means was the U.S. government backing down from its position that slaves were a federally protected form of property, but contested renditions forced slaveholders to question whether the federal government could uphold their property rights and the presumption of slavery in northern communities increasingly hostile to slavery. Under pressure, some federal commissioners even allowed African Americans to take the witness stand, and Black testimony proved decisive in a handful of cases. At a hearing in Pittsburgh in May 1853, U.S. commissioner Jacob Sweitzer discharged Calvin Jones after a group of Black residents, including the abolitionist Martin Delany, vouched that they had known Jones long before he was alleged to have escaped. Southern newspapers fumed that the slaveholder had been "deprived of his constitutional and legal rights by the gross and palpable perjury of free negroes." Although accused runaways were explicitly barred from testifying, delays enabled freedom seekers to point out holes in claimants' arguments to vigilance committee lawyers. After federal authorities captured and hauled Henry Massey to Philadelphia in September 1854, he alerted antislavery attorneys to the existence of two wills, one of which might undermine the claimant's case. The slave master demanded U.S. commissioner Edward Ingraham disregard the evidence because it was "introduced . . . by the fugitive." Ingraham not only granted an adjournment but also took an affidavit from Massey in direct violation of the act's ban on testimony from the accused. Even though Ingraham remanded Massey eleven days later, the larger pattern of delayed renditions was clear.[20]

At the same time that activists were successfully dragging out federal proceedings, emboldened vigilance leaders went on the offensive and used state and local courts to charge federal officers and slaveholders with violating personal liberty laws. The problem first drew serious attention in 1853, when accused runaway John Freeman, upon his release from federal custody, promptly sued the U.S. marshal in Indianapolis for physical abuse. In response, the Pierce administration pledged that any federal officer "harassed with suits on account of his official action in the extradition of a fugitive from service" would be defended by the U.S. government. Even so, battling charges in state courts remained expensive and time-consuming. In September 1853, Philadelphia vigilance leaders brought

[19] The two-thirds and 10% figures come from Wingert Caseload Database. For the examples of slaveholders' expenses in recovering freedom seekers, see "Fugitive Slave Law—Messrs. Clay, Mason, and Dickinson," 295; *Evansville (IN) Journal,* Dec. 10, 1857, p. 2; and *Shepherdstown (VA) Register,* April 14, 1860, p. 3. For the Solon Borland quotations, see "The Fugitive Slave Law—Mr. Borland," *Appendix to the Congressional Globe,* 31 Cong., 2 sess., Feb. 22, 1851, p. 306. For the Corneau quotation, see "Fugitive Slave Case," *Springfield (IL) Illinois State Journal,* Aug. 3, 1857, p. 2. The counsel for freedom seeker Frederick Clements in this case was William Herndon, Lincoln's law partner. Corneau remanded Clements to slavery. On the Abby Franklin case, see "Kidnappers and Commissioners," *Norristown (PA) Olive Branch,* reprinted in *New York National Anti-Slavery Standard,* June 2, 1855, p. 1. For the Mason quotation, see "Fugitive Slave Law—Messrs. Clay, Mason, and Dickinson," 295.

[20] For the Calvin Jones case, see "Fugitive Slave Case," *Pittsburgh (PA) Daily Union,* May 14, 1853, p. 3; and "The Fugitive Slave Law—Novel and Important Case," *Huntsville (AL) Democrat,* June 16, 1853, p. 1. For the Henry Massey case, see "Legal Intelligence," *Philadelphia Inquirer,* Sept. 26, 1854, p. 1; and "Letter from Philadelphia," *Lancaster (PA) Examiner,* Oct. 11, 1854, p. 2.

charges against three U.S. deputy marshals for assault and battery on freedom seeker William Thomas, who fought back and escaped their custody in Wilkes Barre, Pennsylvania. Over the next nine months, the federal deputies were released and promptly rearrested by Pennsylvania officials three more times. U.S. district court judge John Kane was incensed, writing that should federal officers "be compelled constantly to suffer and combat with annoyances like this," their office "becomes anything but a sinecure, and in time it will be difficult to ensure the faithful performance of such duties." A year later in Vincennes, Indiana, vigilance leaders took the unprecedented step of indicting U.S. commissioner John Moore for kidnapping. With Moore facing a mountain of legal bills, Indiana Democrats warned that the U.S. government could not expect "any respectable man to act as commissioner . . . when he is liable to be indicted on a felony, if he does his duty." The case against Moore was dropped in September 1855 but only after the U.S. commissioner was "out of pocket a considerable sum."[21]

The problem became so glaring that Connecticut senator Isaac Toucey, a close legislative ally of the Pierce administration, introduced a bill in February 1855 to automatically transfer any cases against U.S. officers from state to federal courts. The bill, passed in the U.S. Senate but never voted upon in the lower chamber, still would not have helped the many slaveholders who faced the same charges as the federal officers. At least eighteen of these southern claimants appeared in northern state and local courts to answer charges of kidnapping, false imprisonment, and assault. Most cases were dismissed, but such tactics were part of the larger effort of vigilance committees to discourage slaveholders from coming north by making the cost of slave reclamation outweigh the market value of the enslaved.[22]

Even with the U.S. government throwing its considerable weight behind the law, it was not at all certain that federal jurisdiction would prevail in northern states and locales. After residents of Worcester, Massachusetts, violently ejected a federal officer dispatched to

[21] For the quotation from Franklin Pierce's attorney general, Caleb Cushing, see C. C. Andrews, ed., *Official Opinions of the Attorneys General of the United States, Advising the President and Heads of Departments, in Relation to Their Official Duties, vol. VI* (Washington, 1856), 220. In 1855 the Indiana Supreme Court ruled in Freeman's favor, but the case was dismissed on a technicality because it was filed in the wrong county. See Helen Tunnicliff Catterall, ed., *Judicial Cases concerning American Slavery and the Negro,* vol. V: *Cases from the Courts of States North of the Ohio and West of the Mississippi Rivers, Canada and Jamaica* (Washington, 1926), 39–40. On the charges and cases in Pennsylvania against the federal deputies, see the depositions of Francis L. Bowman, Dudley M. Pattie, Henry Pettibone, James Settle, Jonathan Slocum, and William Gildersleeve, Oct. 12–13, 1853, United States ex. relat. Jenkins & Cresson v. Chollet, entry 42-E-11-8.1 and 42-E-11-9.8, box 1, Habeas Corpus Files, 1848–1862, Records of the U.S. Circuit Court for the Eastern District of Pennsylvania, Records of the District Courts of the United States (National Archives, Philadelphia); James Cresson and John Jenkins Petition to the Hon. Robert C. Grier, [Oct. 4, 1853], *ibid.*; Grier Draft Opinion, [Oct. 1853], *ibid.*; Warrant of Arrest for James Cresson, John Jenkins, George Wynkoop, and Isham Keith, Jan. 31, 1854, *ibid.*; and "The Wilkes Barre Slave Case—Judge Kane," *Philadelphia Daily Pennsylvanian,* May 10, 1854, p. 2. On the indictment of John Moore, see John Law to Franklin Pierce, March 14, 1855, entry 9-A, folder 001953-005-0370, Records of the Attorney General's Office, Letters Received, 1809–1870, General Records of the Department of Justice, RG 60 (National Archives, College Park, Md.); Law to Caleb Cushing, March 16, April 28, 1855, *ibid.*; Law to Jesse D. Bright, April 30, 1855, *ibid.*; B. M. Thomas to Robert McClelland, Feb. 9, 1855, *ibid.*; Thomas to Cushing, June 6, Aug. 30, 1855, March 31, 1856, *ibid.*

[22] On Senator Isaac Toucey's bill, see "Reports from Standing Committees," *Congressional Globe,* 33 Cong., 2 sess., Feb. 17, 1855, p. 783; and "Protection of Officers of the United States," *ibid.*, 33 Cong., 2 sess., Feb. 23, 1855, pp. 902–3. Ohio senator Salmon Chase denounced the proposal as an "overthrow of State rights" designed to establish "a great central, consolidated, Federal Government." See "Execution of United States Laws—Debate," *Appendix to the Congressional Globe,* 33 Cong., 2 sess., Feb. 23, 1855, pp. 211–46, esp. 211. The 18 claimants figure comes from the Wingert Caseload Database. At least one claimant, Kentuckian Benjamin Rust, was convicted and fined $50 for assaulting freedom seeker Daniel Davis at Buffalo, New York. See "Sentence of Rust, the Slave-Catcher," *Boston Liberator,* Sept. 5, 1851, p. 2.

arrest an abolitionist in October 1854, U.S. district attorney Benjamin Hallett requested that Washington send additional manpower, confessing that the force of U.S. marshals in the state "cannot do it, without certain exposure to bodily harm if not loss of life." Hallett painted a bleak picture in his report to President Pierce: "the U. States must either surrender its jurisdiction in Worcester to the mob, or must enforce its process by a strong arm." The federal government sent no reinforcements, and the charges against the Massachusetts residents ultimately went nowhere. Three years later in May 1857, local Ohio officials arrested a posse of federal officers busy rounding up Mechanicsburg, Ohio, residents who days earlier helped freedom seeker Addison White evade capture. With federal officers sitting in state jail, U.S. district attorney John O'Neill begged Washington for instructions while warning that without a sufficient show of force, "it will be, hereafter, wholly impossible to execute any process in Ohio, in any the slightest degree connected with the Fugitive Slave law." President James Buchanan and Ohio governor Salmon Chase eventually broke the impasse by releasing the federal officers and agreeing that the rescuers would reimburse White's slaveholder, but none of the defiant Ohio activists faced criminal charges.[23]

Underground Railroad activists broke the federal law with near impunity as northern communities and even state governments rallied behind them. Faced with northern jurors hesitant to mete out harsh punishments, federal prosecutors frequently either dropped the charges altogether or sought nominal convictions with light sentences. In December 1854, an Indiana jury agreed to convict the abolitionist Benjamin Waterhouse only on the condition that the court remit his $50 fine and hand down a mere one-hour prison sentence, to be served in the courtroom. Waterhouse's sentence was especially lenient, but it was not that unusual. Of the roughly eleven abolitionists actually convicted during the decade, most received just ten to thirty days' jail time, well shy of the six-month maximum allowed under the law, and faced fines that were either subsequently reduced or paid by sympathetic local communities that often celebrated convicted abolitionists. After serving twenty days in June 1858 for aiding two Kentucky freedom seekers, the newspaperman William Connelly was triumphantly paraded through the streets of Cincinnati, toasted by the local German community, and invited to deliver a public lecture about his illegal activities. In Wisconsin in March 1860, U.S. authorities finally rearrested the Milwaukee abolitionist Sherman Booth for the part he had played in the rescue of a fugitive being held in jail in 1854. In the intervening years, Booth was engaged in a prolonged legal battle after the Wisconsin Supreme Court declared the federal law unconstitutional. But in the summer of 1860 Booth was freed by what U.S. marshal Jehu Lewis described as "an organized band, aided and encouraged by almost universal public sympathy." Booth and his rescuers traveled by rail to nearby Waupun, where the convicted abolitionist spoke at a Lincoln campaign rally, taunted federal officers he encountered on the streets, and held public meetings with armed supporters. The embarrassed U.S. marshal conceded that "it will be impossible to take him at this time, as the people are generally opposed to it, and with few exceptions are inclined to obstruct my efforts." Booth was eventually apprehended in October, but the message was clear: few convictions, light

[23] Benjamin F. Hallett to Pierce, Oct. 31, 1854, entry 9-A, folder 001953-007-0271, Records of the Attorney General's Office, Letters Received, 1809–1870, General Records of the Department of Justice. John H. O'Neill to Jeremiah S. Black, May 30, 1857, entry 9-A, folder 001953-016-0001, *ibid.*

sentences, and open defiance from northern communities and states had made a mockery of federal authority.[24]

As the decade progressed, slaveholders grew convinced that, at least regarding slavery, American federalism afforded too much latitude to individual states. Southern politicians demanded expansive congressional authority to overturn northern states' personal liberty laws, and in December 1860 outgoing president James Buchanan endorsed a constitutional amendment to override these controversial statutes. As Georgia senator Robert Toombs acknowledged in 1860, the federal government itself was not the problem—indeed, "within the last seven years," it had never "been truer to its obligations." Slaveholders' last-ditch efforts to dismantle northern state laws reflected their growing doubts about whether federal support was sufficient to protect slavery. Even though successive proslavery presidential administrations and the Taney court had affirmed that slaves were a federally protected form of property, the problem remained that northern communities and state governments could interpret the U.S. Constitution for themselves, and many of them had turned against slaveholders and flouted proslavery federal policies. Slaveholders still controlled the U.S. government, but it became clear that no amount of federal intervention could prevent northerners from frustrating renditions and openly defying federal authority. The Georgia secession convention in 1861 summarized the prevailing view when it declared that slaveholders' rights to recapture runaways "are wholly disregarded by the people of the Northern States, and the Federal Government is impotent to maintain them." Proslavery leaders applied the lessons learned in the 1850s when they wrote the Confederate Constitution, which explicitly recognized slaves as property under national law and forbade any state from legislating against slavery.[25]

[24] On the Benjamin Waterhouse case, see "A Singular Slave Case in Indiana," *New York Herald,* Dec. 18, 1854, p. 8. The jail-time figure for convicted abolitionists comes from the Wingert Caseload Database. The harshest punishment under section 7 (which laid out the penalties for helping fugitives elude or escape their pursuers) of the 1850 Fugitive Slave Act may have been imposed on George Gordon, the president of Iberia College in Ohio. He was charged with participating in a rescue in September 1860, though he was not convicted until November 1861. Gordon was sentenced to six months' imprisonment and a $300 fine but was pardoned by President Lincoln in April 1862. See John Jolliffe, *In the Matter of George Gordon's Petition for Pardon* (Cincinnati, 1862); and John R. McKivigan, "Prisoner of Conscience: George Gordon and the Fugitive Slave Law," *Journal of Presbyterian History,* 60 (Winter 1982), 336–54. On William Connelly, see "Personal," *New York Times,* June 10, 1858, p. 5; "From our Cincinnati Correspondent," *New York National Anti-Slavery Standard,* June 26, 1858, p. 3; "Release of W. M. Connelly," *Boston Liberator,* July 2, 1858, p. 4; and Roberta Sue Alexander, *A Place of Recourse: A History of the U.S. District Court for the Southern District of Ohio, 1803–2003* (Athens, Ohio, 2005), 46–47. On the Sherman Booth case, see Jehu Lewis to Black, March 1, March 5, 1860, entry 9-A, folder 001953-019-1046, Records of the Attorney General's Office, Letters Received, 1809–1870, General Records of the Department of Justice; Lewis to the President of the United States, Aug. 3, 1860, *ibid.*; and "Letter from S. M. Booth," *Milwaukee (WI) Free Democrat,* reprinted in *Boston Liberator,* Sept. 7, 1860. Booth was sentenced to only one month in prison for his part in the rescue of the fugitive Joshua Glover, but failure to pay court costs kept him in jail ten months. President James Buchanan remitted Booth's fines days before leaving office, and he was finally released. See James Buchanan Remission of Fine, March 2, 1861, U.S. v. Booth, Criminal Case Files, 1858–1862, Records of the District Courts of the United States, RG 21 (National Archives, Chicago). In another unsuccessful penalty case brought against Chicago abolitionists for their involvement in the November 1860 rescue of freedom seeker Eliza Grayson, the U.S. attorney for the northern district of Illinois, Henry S. Fitch, requested funds from the attorney general to hire an assistant counsel. See Henry S. Fitch to Black, Dec. 18, 1860, entry 9-A, folder 001953-004-0429, Records of the Attorney General's Office, Letters Received, 1809–1870, General Records of the Department of Justice; and Fitch to Attorney General Edwin M. Stanton, Jan. 20, 1861, *ibid.*

[25] On southern politicians' objections to personal liberty laws, see "The Union," *Congressional Globe,* 36 Cong., 2 sess., Dec. 12, 1860, pp. 77–79; and "Rights of Citizens of the United States," *ibid.*, Dec. 17, 1860, p. 106. On Buchanan's endorsement, see Fehrenbacher, *Slaveholding Republic,* completed and ed. by McAfee, 247–48; and Morris, *Free Men All,* 203–8. For the Robert Toombs quotation, see "Invasion of States—Mr. Toombs," *Appendix to the Congressional Globe,* 36 Cong., 1 sess., Jan. 24, 1860, p. 88. For the quotation from the Georgia secession

The fugitive crisis featured prominently in secession ordinances because it changed how slaveholders perceived their relationship to the national government and federalism. That was why Deep South slaveholders, who were the least affected by escapes, paradoxically made the most noise about the fugitive crisis. Border-state slaveholders, who were most directly affected by escapes, generally pinned their hopes of preserving slavery on continued fealty to the U.S. government. Already abutting free soil and facing the imminent threat of slave flight, border-state leaders sought to prevent a war that would likely be waged in their midst. But for slaveholders throughout most of the South, the issue had never been solely about escapes. Proslavery politicians long accustomed to wielding federal power to promote slavery grew increasingly doubtful that the U.S. government could do all they asked of it. And if federal intervention could not compel northern compliance, then how helpful an ally was the U.S. government, and what use was the Union to slaveholders? Lincoln's election in 1860 served as the immediate catalyst for secession, but the fugitive crisis played a key role in escalating tensions to that point, and made it significantly easier for slaveholders to discard the Union and imagine a new central government.[26]

convention, see *Journal of the Public and Secret Proceedings of the Convention of the People of Georgia* (Milledgeville, 1861), 112. Constitution of the Confederate States, art. I, sec. 9, cl. 4, and art. IV, sec. 3, cl. 3.

[26] On the thinking of border state slaveholders, see Harrold, *Border War,* 194–202.