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The Fugitive Slave Law

When twenty-three-year-old Peter Green left Newport, Giles County, Virginia, in early September 1850, his plan was to get to Richmond and from there to a Free State. He got only as far as Lynchburg, roughly one hundred miles from his home, when he was intercepted at the Franklin Hotel as he tried to buy a train ticket. When questioned, Green claimed he was a free man going on a visit to Pennsylvania. But it quickly became apparent that his free papers, which he readily produced, were forged. Those who took him into custody found that he was also carrying an atlas, pen, ink and paper – which possibly could be used to forge additional passes as needed – and on which was carefully recorded the mileage between Newport and Richmond. A few weeks earlier, a group of eight slaves from Clarke County, in the Shenandoah Valley of Virginia, had arrived in Harrisburg, Pennsylvania. Three of them, Samuel Wilson, George Brocks, and Billy, decided to try their luck in the city, unaware that their masters were hot on their heels. From Chillicothe, Ohio, came word that more than 110 slaves had passed through the town from Kentucky in the six months before October 1850. One slave catcher told a not-too-sympathetic correspondent that, over the spring and summer of 1850, Maryland and Virginia had lost more slaves than in "any former period." Among them must have been the seven who together fled Maryland in August 1850, five of whom were captured in Shrewsbury, Pennsylvania, one mile above the Maryland line, as well as the ten Virginia slaves who got lost in the Allegheny Mountains and were captured in Bedford, Pennsylvania. These were just a few examples of what, to many Southerners, was a disturbing pattern of slave escapes.

A few of these escapes were nothing if not spectacular. William and Ellen Craft had escaped from Macon, Georgia, over the 1848 Christmas holidays. Phenotypically white, Ellen dressed as a master traveling to Philadelphia for medical treatment; William accompanied her as her slave. Traveling openly by train and boat, they made it to Pennsylvania in just four days. Three months

later, Henry Brown came up with the ingenious scheme to have himself crated and mailed to Philadelphia. Hours later he emerged triumphantly from his box at the offices of the American Antislavery Society, if a little worse for wear. Both the Crafts' and Brown's escapes were celebrated by abolitionists as feats of daring and a demonstration of the determination of the enslaved to be free. But even in failure, so too were Green's, Wilson's, Brock's, and Billy's and the many others who fell short of their mark. Not a day passes, one frustrated Maryland editor reported, when one or more slaves did not take a chance on reaching a Free State. The consequent losses, he despaired, were "immense."[1]

The immensity of the problem, many insisted, was in large part due to interference from outside forces, of abolitionists and their agents, black and white, who seemed to circumvent all the mechanisms slaveholders had put in place to stanch the bleeding. In Peter Green's case, it was a "scoundrel of a Yankee" who had accompanied him as far as Lynchburg only to abandon him once he was captured. The unidentified Yankee, who we can assume was white, was supposedly part of an organized band of robbers who came south under different guises. Following Green's capture, a local newspaper called on the community to be on its guard, for, it warned, nearly every area of the upper South had "one or more abolition emissaries in its midst, colporteurs, book-sellers, tract agents, school teachers, and such like characters, who omit no occasion to poison the minds of our slaves, and then steal them." The list of subversives seemed endless, reflecting a deep sense of slavery's vulnerability made worse by the inability to control the flow of people and goods on which most of the commerce and culture of these communities depended. Similar warnings came from port cities, such as Norfolk, Virginia, which many observers considered gateways to freedom points at which escaping slaves were aided by Northern free black sailors who found ways to circumvent legal restrictions

[1] Lynchburg *Republican* (n.d.), in *Liberator,* September 27, 1850; *Pennsylvania Freeman,* August 29, 1850; Richmond *Whig,* September 3, 1850; New York *Tribune,* September 6, 1850; Maysville *Eagle,* October 15, 1850; *The North Star,* September 5, 1850; Baltimore Sun (n.d.), in Hagerstown *Herald of Freedom,* August 14, September 4, 1850; *Sanduskian,* October 8, 1850; Lynchburg *Virginian,* October 10, 1850; William Craft, *Running a Thousand Miles for Freedom. The Escape of William and Ellen Craft* (London: 1861); Jeffrey Ruggles, *The Unboxing of Henry Brown* (Richmond: 2003). There were many others in the years leading up to 1850, including the rescue of Adam and Sarah Crosswhite, fugitives from Kentucky who had settled with their children in Marshall, Michigan, where they were retaken and soon after rescued and sent to Canada. Marty Debian, "One More River to Cross. The Crosswhites' Escapes from Slavery," in Karolyn Smordz Frost, and Veta Smith Tucker, eds., *A Fluid Frontier. Slavery, Resistance, and the Underground Railroad in the Detroit Borderland* (Detroit: 2016). There was another dramatic rescue at South Bend, Indiana, of fugitives on their way south. Charles H. Money, "The Fugitive Slave Law of 1850 in Indiana," *Indiana Magazine of History,* XVII (September 1921), and Dean Kotlowski, "'The Jordon is a Hard Road to Travel;' Hoosier Responses to Fugitive Slave Cases, 1850–1860," *International Social Science Review,* 79, Nos. 3 & 4 (2003); Scott Mingus, *The Ground Swallowed Them Up. Slavery and the Underground Railroad in York County, Pa.* (York, PA: 2016), 110–13.

placed on black crews employed on ships from the North. Some of these ships, one Norfolk newspaper reported, make "the abduction of slaves a matter of trade and a source of profit. Scarcely a week passes that we do not hear of one or more being taken off." But even more troubling was the fact that these free black sailors indoctrinated "the minds of the slaves with the notions of freedom, and afterwards afford[ed] them the means of transportation to free soil." It was common wisdom that white and black outsiders were responsible for first corrupting and then encouraging slaves to escape. Peter Green, and any other slave, simply could not have acted on their own.[2]

The losses were staggering. According to Arthur Butler, a senator from South Carolina, Kentucky alone lost $30,000 worth of slaves every year, a figure that rose to as much as $200,000 for the entire border slave states. His colleague, James Mason of Virginia, put the loss at "a hundred thousand annually." Thomas Pratt, former governor of Maryland, spoke from experience: during his administration, the state lost slaves, valued at $80,000, every year. Never one to miss an opportunity to exaggerate, David Atchison of Missouri, while he could not be more specific, was certain that "depredations to the amount of hundreds of thousands of dollars [were] committed upon property of the people of the Border States of this Union annually."[3] These were wildly imprecise figures. But they nonetheless reflected the depth of frustration and the anxiety the flight of fugitives generated as well as the inability to curtail apparent interference from outside forces. Such interference with and pilfering of private property in the South was buttressed by Free State laws, such as Pennsylvania's (1847), which barred holding suspected fugitive slaves in state prisons. The activities of abolitionists, free blacks, and fugitive slaves only compounded the problem by making it even more difficult, if not impossible, to reclaim slaves once they reached a Free State. Together, laws such as Pennsylvania's were, Mason declared, the "greatest obstacle" to reclaiming escapees. He reached for an appropriate metaphor to capture the difficulty of reclaiming fugitives: it was, he said, like searching for fish in the sea. Colleagues may have found such tropes inept, but it was the best Mason could conjure up during the heated debate over the need for a new and more effective fugitive slave law. Pratt was more practical. Maryland fugitives did not simply vanish once they

[2] Lynchburg *Republican* (n.d.), in *Liberator,* September 27, 1850; Norfolk *Southern Argus,* November 11, 1850; Richmond *Whig*, September 24, 1850. The daring attempt to take seventy-seven men, women and children, from Washington, DC, on the schooner, *Pearl*, in April 1848, was yet another example of the levels to which these emissaries were willing to go to subvert the system. For coverage of the incident, see Stanley Harrold, *Subversives. Antislavery Community in Washington, DC, 1828–1865* (Baton Rouge: 2003), 116–18, and by the same author, *Border Wars. Fighting Against Slavery before the Civil War* (Chapel Hill: 2010), 131–33. Mary Kay Ricks, *Escape of the Pearl. The Heroic Bid for Freedom on the Underground Railroad* (New York: 2007).

[3] *Appendix to the Congressional Globe, First Session, Thirty-First Congress* (1850), 81, 1605, 1603, 1601.

reached Pennsylvania; local mobs, made up largely of African Americans, had prevented their return.[4]

These were losses the Slave States could no longer endure. Something had to be done to find a more effective means to reclaim lost slaves as required by Article 4, Section 2 of the Constitution. The 1793 Fugitive Slave Law, Mason and his colleagues believed, had become, over the years, a dead letter. The solution was a new, expanded, and more effective fugitive slave law – a law with teeth – which Mason submitted to the Senate in January 1850. Mason may have drawn on a report of a Select Committee of the Virginia General Assembly, which, after looking into the history of the crisis, made a number of recommendations to address the problem. The report was premised on what, by mid-century, had become a generally accepted historical myth: namely, that Southern states would not have consented to join the Union had the Constitutional Convention not addressed the issue of fugitive slaves. Quoting Associate Justice of the US Supreme Court Joseph Story, in the case of *Prigg v. Pennsylvania* (1842), the authors of the report observed that the agreement to return fugitive slaves "constituted a fundamental article, without whose adoption the Union would not have been formed." The 1793 law was meant to buttress this "solemn compact." For the first two decades of the nineteenth century, this agreement was widely enforced, until it came under attack, in the wake of the 1820 Missouri Compromise, by political fanatics driven by "sectional jealousy." A series of personal liberty laws – what the report described as "disgusting and revolting exhibitions of faithless and unconstitutional" legislations – meant that slaveholders could no longer rely on the aid of Free State officers. Not only were fugitive slaves harbored and protected, but "vexatious suits and prosecutions were initiated against owners or their agents, resulting sometimes in imprisonment." Irresponsible mobs, "composed of fanatics, ruffians and fugitive slaves, who had already found asylum abroad, were permitted by local authorities to rescue recaptured slaves in the lawful custody of their masters, and imprison, beat, wound and even put to death citizens of the United States." As a consequence, the cost of recapture often exceeded the value of the slaves retrieved. These actions were buttressed by the activities of abolitionist societies, which aimed to destroy slavery by, among other means, sending emissaries into the "very heart of the slaveholding states" to induce slaves to escape. These forays had made slave property increasingly tenuous by imposing what, in effect, was a "heavy tax" on the border states. If an owner wished to reclaim his slave, he must venture into hostile territory, seize the slave himself, march him off to a judge, sometimes over great distances, all the while hounded by hostile forces. And even then, there was no guarantee his property would be returned. Something had to be done immediately if "border warfare," was to be prevented. The committee recommended

[4] Ibid., 1610, 1592.

the establishment of a federal policing system. Commissioners, clerks, marshals, postmasters, and collectors of customs would be given authority to issue certificates to claimants; marshals would have the power to make arrests and to call out a posse to ensure the return of the slave, all expenses to be covered by "the public treasury of the United States." Finally, the committee recommended increasing the penalty for obstructing renditions, making "assemblies meant to obstruct the operation of the law" a misdemeanor, and "any death resulting from resistance" a felony.[5]

Mason's recommended fugitive slave bill not only stiffened the penalties imposed by the original Fugitive Slaw Law of 1793, it also made it easier for slaveholders to reclaim slaves who had escaped to a Free State. Commissioners, traditionally minor legal administrators, were to be vested with expanded judicial authority. Hearings were to be perfunctory and a commissioner's decisions final and not subject to appeal; suspected fugitives were not allowed to testify on their own behalf or be allowed legal representation; jury trials were not permitted; whenever they suspected there would be community resistance to their decisions, commissioners were empowered to call out a posse to enforce their order, the cost to be borne by the federal treasury. If requested to do so by the authorities, citizens of Free States had to become involved in the recapture of slaves. Those who impeded the application of the law, gave aid to a fleeing fugitive, or refused to aid in the recapture of slaves, faced stiff penalties. It would serve no purpose, Mason insisted, to adopt new legislation without teeth. The new law had to be effective and tailored to meet the needs of new political realities brought on by rising levels of slave escapes and abolitionist activities, which together made slave property increasingly vulnerable.

In early February 1850, Kentucky's Henry Clay proposed a set of compromise measures that he told the Senate were meant as a balm to soothe his "distracted" and "unhappy country" which, he feared, stood on the "edge of a precipice." Clay called on both sides to give ground, "not on principle" but "of feeling of opinion" in an effort to solve the pressing problems facing the country following the end of the war with Mexico, which saw the United States acquire vast tracts of land in the west.[6] The country was mired in a potentially

[5] "Report of the Select Committee," Virginia General Assembly, House of Delegates. House Documents No. 50 (1848–1849), 5, 9–11, 14, 18–19. Interestingly, many of the same arguments were made by Mason's mentor, John C. Calhoun, the South Carolina senator, who a year earlier had called for the creation of a Southern party to defend Southern interests. In Calhoun's analysis of the history of what he called "acts of northern aggression and encroachment," the crisis could be traced to 1835 and the emergence of organized aggressive abolitionist activity, which included sending "incendiary publications" into the South as well as emissaries to "incite discontent among the slaves" and agitating "the subject in Congress." Clyde N. Wilson and Shirley Bright Cook, eds., *The Papers of John C. Calhoun,* 28 Vols. (Columbia, SC: 2001), Vol. 26, 225–44. See William A. Link, *Roots of Secession. Slavery and Politics in Antebellum Virginia* (Chapel Hill: 2003) for a discussion of the relationship between slavery and Virginia state politics.

[6] Quoted in Fergus M. Bordewich, *America's Great Debate. Henry Clay, Stephen A. Douglas and the Compromise that Preserved the Union* (New York: 2012), 5–7.

debilitating crisis over what to do with the lands. It was, in part, to address this problem that, in 1847, John C. Calhoun had called for the creation of a unified Southern party to promote Southern interests. He demanded that slaveholders be allowed to take their slaves into the new territories. Such insistence met with stiff resistance from those who believed that the 1820 Missouri Compromise had set the permanent limits of slavery. In 1846, David Wilmot's demand that the House accept President Polk's request for additional funds to fight the war with Mexico only on the condition that slavery be banned from any territory acquired as a result of the war became the political marker dividing the two sections. Although what became known as the Wilmot Proviso was never adopted by the Senate, it continued to win support in the House. In addition, all Northern legislatures, bar one, called on Congress to ban slavery in the territories, and to abolish the slave trade in Washington, DC. A few even demanded the total abolition of slavery.[7] Clay was right: the country was in crisis.

Clay included Mason's bill as part of his Compromise, which, he hoped, would address the outstanding concerns of both sections. Under his recommendation, California would enter as a Free State, the residents of the Utah and New Mexico territories were vested with the power to determine whether they entered the Union as a Free or Slave State; the contested lands between Texas and New Mexico were to be finally adjudicated, with Texas giving up much of the land it now claimed; and the slave trade but not slavery was to be abolished in Washington, DC. Clay's plan applied five plasters to five seeping sores. Over the next nine months, the attention and energy of both houses of Congress would be focused, almost exclusively, on the final terms of the Compromise. Try as they might, the fugitive slave wound continued to seep. In fact, for many in the North, especially those opposed to the extension of slave territory, the law became the one element of the Compromise that was totally unacceptable. In the South, its adoption and enforcement was seen as the ultimate measure of the North's commitment to a resolution of the crisis. Opponents of the law cried foul: the powers vested in commissioners were unprecedented and unconstitutional, and the differential payments they were to receive – $10 if their decision favored the claimant, and $5 if it did not – struck many as grossly unfair and an incentive, the equivalent of a bribe, to commissioners to rule in favor of the slaveholder. Two pillars of the judicial system, the right to a trial by a jury of one's peers and the right to habeas corpus, seemed to be eviscerated by the proposed law. Without these rights, free blacks could fall victim to false claims by slaveholders. As it stood, the law would give a free hand to kidnappers, a problem that had bedeviled the residents of black communities for decades. The steep penalties imposed on those who aided accused fugitives to elude their captors violated the biblical

[7] John C. Waugh, *On the Brink of Civil War. The Compromise of 1850 and How it Changed the Course of American History* (Wilmington, DE: 2003), 4–5.

command to aid the poor, the hungry and weary traveler. In effect, it turned the average citizen into a slave catcher. The fact that the cost of rendition was to be borne by the national treasury imposed a hidden tax on all citizens. And the authority to call out a posse created a national police enforcement mechanism. The law, moreover, did not provide a statute of limitation. A fugitive who for years had been living as a free person, had started a family, had been gainfully employed and was a productive member of his community, could be snatched from his family and community and returned to slavery at any time. Salmon Chase of Ohio spoke for many opponents. The law, he argued, was illegal if for no other reason than the Constitution did not grant Congress the power to legislate for the return of fugitive slaves. "The power to provide by law for the extradition of fugitives is not conferred by an express grant," he told his colleagues. "We have it, if we have it at all, as an implied power; and the implication which gives it to us, is, to say the least, remote and doubtful. We are not bound to exercise it. We are bound, indeed, not to exercise it, unless with great caution, and with careful regard, not merely to the alleged right sought to be secured, but to every right which may be affected by it." Prior to the decision in *Prigg v. Pennsylvania*, Chase observed, each state had developed "its own legislation to address the issue." The new law would destroy that tradition and shift enforcement to the federal government.[8]

Those who argued the need for a new law considered the old law a dead letter. The 1793 law relied too heavily on state officials to enforce its provisions, mandated penalties were distressingly minor, abolitionists and their black supporters either ignored or defied rulings, and Northern states had set in place laws that undermined its effectiveness. Mason demanded one thing of the new law: it had to impose more draconian enforcement mechanisms. Without them, the citizen's claims would not be adequately addressed. It is the duty of government, he argued, to protect its citizens, "not merely to give them a remedy; but if one form of remedy will not accomplish the end, then to enlarge it in every possible respect till it becomes effectual." If that could not be done then the government was obligated to indemnify the claimant for any loss that resulted from inefficiency or inaction. Maryland's Thomas Pratt offered a supportive amendment to Mason's bill, which called on the federal government to indemnify slaveholders for any loss they may incur as a result of negligence or inactivity on the part of federal officials. A vote in support of his suggestion by Northern senators, Pratt almost pleaded, would give the South "substantial

[8] *Appendix to the Congressional Globe, First Session, Thirty-First Congress* (1850), 47; *Appendix to the Congressional Globe, Second Session, Thirty-First Congress* (1851), 309. Chase had employed these arguments in earlier defenses of fugitive slaves in Ohio. See Paul Finkelman, *An Imperfect Union. Slavery, Federalism, and Comity* (Chapel Hill: 1981), 157. For this argument's wider appeal see Daniel Feller, "A Brother in Arms: Benjamin Tappan and the Antislavery Democracy," *Journal of American History, Vol.* 88, *No.* 1 (June 2001), 48–74. As Rumpole of the Old Bailey is fond of saying, trial by jury is "the lamp that shows that freedom lives." John Mortimer, *Forever Rumpole. The Best of Rumpole Stories* (London: 2011).

evidence" of the North's commitment to do justice to those who lost their property. Without indemnification, Mason threatened, slaveholders, and by extension the South, would be forced to take "their own protection into their own hands."[9] Pratt's amendment failed to win support, but, in the end, the law did mandate that the federal treasury cover the cost of returning captives.

Henry Clay insisted that the right and most effective way to address Northern concerns about the denial of trials by jury was first to return captives to the states from which they escaped and there to allow a hearing before a jury. This, he suggested, was one practical way to address the many petitions Congress had received calling for trials at the point of capture. The place from which the alleged fugitive had escaped was, Clay countered, the only location where, under the Constitution, a trial was even permissible. His proposed solution had one additional merit: it would cause "very little inconvenience." William H. Seward, of New York, and other Northern senators, countered that jury trials had to occur at the place where the accused was seized. Anything else would not guarantee a fair and impartial hearing. William Dayton of New Jersey went a step further: in all hearings before commissioners, depositions had to be authenticated and proof provided that the person claimed was a fugitive. Proof must also be provided that slavery existed in the state from which the accused had escaped. Dayton's proposal was meant to address what many saw as a lax and total reliance on Southern courts for verification and certification. All a slaveholder had to do was apply to a local court for a certificate confirming that his slave had escaped. Only after these conditions were met would the commissioner be able to issue a warrant for the fugitive's return. But if the accused denied he was a fugitive, a jury of twelve had to be empaneled to try the case. This was clearly a blocking mechanism aimed at delaying, if not impeding, hearings. Mason rejected these proposals out of hand: jury trials, he knew, could cause interminable delays and were nothing more than devises meant to disrupt enforcement. George Badger of North Carolina agreed; trials by jury at the place of capture were meant to prevent extradition through interminable delays and appeals. Such proposals, he responded, supposed "us so stupid as not to be able to see through the most shallow artifice, or detect the most clumsy device of concealment." All talk of jury trials, whether in the North or the South, was nothing more than a "miserable expedient" meant to deny slaveholders the right to reclaim "our property." Mississippi's Jefferson Davis, who expressed little interest in the law, convinced it would not "be executed to any beneficial extent," nonetheless condemned the calls for jury trials in the places where fugitive slaves were apprehended as a violation of state rights. Clay's fellow Kentuckian, Joseph Underwood, thought the offer of a trial in the South, once the slave was returned, merited serious consideration, as it provided a way out of a sticky political impasse. It had the additional

[9] *Appendix to the Congressional Globe, First Session, Thirty-First Congress* (1850), 1591–92, 1603–04.

advantage of mollifying Northern opinion without conceding the constitutional need for a speedy return of captives.[10] But Underwood's amendment generated little support.

There would be no jury trial at either the point of capture or escape, although throughout the 1850s those who applied the law would continue to insist, in the face of all evidence to the contrary, that accused fugitives could go to court in the South to challenge their status. But the issue did not die and reappeared frequently in subsequent congressional debates. During his maiden speech on the subject of the Fugitive Slave Law in 1852, for example, Charles Sumner of Massachusetts raised the issue in his call for the law's repeal. Lewis Cass, Democrat of Michigan, and James Cooper, a Pennsylvania Whig, both of whom had voted for the law, now recalled that, at the time, they had raised the question with Southern senators and were assured that there was no need for such a provision, as trials were available to those who requested them in the South. In the face of Sumner's criticism, Cass now seemed to back away from his original endorsement, wondering if the provision for such trials already existed, why it was not explicitly articulated in the law. By not doing so, he lamented, supporters of the law had paid a political price. "If that provision had been inserted in the bill as it was finally passed," he now admitted, "it would have taken away a great many of the objections to the law." Those outside of Congress who supported the law also found themselves at a disadvantage. A correspondent of John Floyd, governor of Virginia, wondered if there was a provision in state law allowing for jury trials for returned slaves who claimed they were free. The existence of such a provision, he believed, would go a long way to silence critics, especially abolitionists, "whose infernal system of falsehood and misinterpretation is pursued with all the zeal of blind and traitorous fanaticism."[11]

Mason also gave no ground on the issue of habeas corpus. Robert Winthrop of Massachusetts argued that a commissioner's certificate should never invalidate a habeas corpus ruling by a state judge. Mason countered that commissioners were not empowered to try the question of "freedom or slavery"; their sole role was to determine if the person brought before them was a slave and whether he had escaped from the claimant. Neither Congress nor state legislatures, he reminded Winthrop, were permitted to address the question of habeas corpus except in cases of invasion or rebellion. Furthermore, a commissioner's certificate of rendition was "conclusive evidence" that the fugitive was held "in custody under the provisions of the law" and so trumped any writ issued by a state judge. These concerns about the rights of fugitives Mason dismissed as misplaced. The constitutional mandate was clear and to the point: fugitives

[10] Ibid., 572, 386–87, 526, 1583–88; Bordewich, *America's Great Debate*, 225.

[11] *Appendix to Congressional Globe, First Session, Thirty-Second Congress* (1852), 1125; George W(illegible), to Floyd, Dayton, Ohio, January 10, 1851, Executive Papers, January–February 1851, Governor Floyd, Virginia State Library and Archives, Richmond, VA.

from labor "shall be delivered up." Following delivery, he conceded, "the title will unquestionably be tried," but it would be "utterly unaffected by any adjudication as to the right of custody upon the mere question of surrender." Underwood again tried to bridge the divide with an amendment that once again raised the issue of a trial: if a fugitive should claim to be free upon return, the claimant would post a bond of $1,000 so the claim could be heard by a local court. Mason objected to the bond requirement, admitting something that most Southerners knew from experience; in most cases, owners found it necessary, as he delicately put it, to "dispose" of returned slave.[12]

Throughout the debate, which lasted nine months, Mason did not give an inch. His rejection of the guarantees of habeas corpus and trial by jury were freighted with political and judicial significance, so much so that, before President Millard Fillmore approved the law, he asked his attorney general, John J. Crittenden, for his opinion on whether the last sentence of Section 6 of the law in effect suspended habeas corpus in cases involving fugitive slaves, as most opponents claimed. The section was unambiguous. It declared that fugitives did not have a right to testify at their hearings, that the certificates granted by commissioners were final and empowered claimants to return fugitives to the state or territory from which they escaped, and, most tellingly, that certificates of rendition were immune from "all molestation of such persons by any process issued by any court, judge, magistrate, or other person whomsoever." How else to interpret the molestation clause but as a suspension of habeas corpus? Crittenden submitted his opinion the very day the president put his signature to the law, which suggests that the issue had been under review by the administration for some time. Crittenden's conclusion was that it did not. But his reasoning seems strangely circuitous: it did not, because the law said nothing about habeas corpus; that under the Constitution, Congress could only suspend the writ in times of war; that, clearly, Congress had no intention to suspend it; and, finally, there was no conflict between the law and habeas corpus in "its utmost constitutional latitude." Crittenden pointed out that the ruling of the Supreme Court was clear: once a person charged is under "the sentence of a competent jurisdiction," the judgment is conclusive. There was simply no appeal to the decisions of a "tribunal of exclusive jurisdiction." All the law did was provide a more effective mechanism for the securing of fugitive slaves who have "no cause for complaint," because it did not provide any additional coercion to that "which his owner himself might, at his own will, rightfully exercise." Rather, its aim was to impose an "orderly, judicial authority" between fugitive slaves and owners and, as such, offered a form of protection to both parties. Its intention, he concluded, was the same as that of the 1793 law. A certificate of rendition was nothing more than a "sufficient warrant" for the return of a fugitive and, he concluded, did "not mean a suspension of the

[12] *Appendix to the Congressional Globe, First Session, Thirty-First Congress* (1850) 1589–90, 1610–11.