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THE SLAVE TRADE AND FUGITIVE SLAVES
DURING THE CIVIL WAR

By

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PREFACE

It is pertinent to this study that a comprehensive discussion of the ante-bellum extent, methods, and general characteristics of the slave trade and fugitive slaves be sketched in order to clarify occurrences during the war. Therefore, each chapter contains a background account of the discussion.

My thanks are given to Professors Clement Eaton and William B. Hesseltine for their helpful guidance and constructive criticism.

R. L. M.

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Chapter I

Suppression of the African Slave Trade

Captain Nathaniel Gordon hesitatingly mounted the steps to the scaffold. The noose was quickly adjusted and the trap door sprung. Only a few federal troops and witnesses watched the dying man.¹ Still fewer realized the tremendous significance of the execution. As Gordon died, so died American participation in the African Slave Trade.

This hanging, with subsequent other convictions, indicated that the Federal Government had at last taken drastic measures to suppress American activity in the centuries-old trade. President Abraham Lincoln declared in his message to Congress, December 3, 1861, "...the efforts which have been made for the suppression of this inhuman traffic have been recently attended with unusual success."² Thereafter, the demise of the "black ivory" trade was anti-climactical, hiding behind a larger setting of American Civil War and the death throes of the slavery system itself. Many factors finally combined to fashion

1. New York Tribune, February 22, 1862; New York Herald, February 4, 1862.

2. Senate Executive Document, 37 Congress, 2 Session, No. 1.

the downfall of the slave trade; for, this lucrative, sometimes illegal traffic, had survived over two hundred and fifty years in an expanding United States.

Both North and South sections were guilty of sustaining the business. The South, for the most part, furnished the market for African importations to the United States coast. Growth of cotton, rice, and sugarcane on plantations required much labor and the slavery system which fastened itself on this agricultural economy seemed best to fill the labor need. Planters invested most of their surplus capital in additional acreage and slaves. As the acres of the East lost fertility, the plantation owners of the Lower South, largely devoted to cotton culture, sent their sons westward to plant new cotton lands. With expansion before the Civil War came a greater need for labor which resulted in higher prices for slaves. Immigrants streamed to the North to work in factories and because slave breeding in the Upper South was not enough to fill the labor demand, the illegal African slave trade to the American continent reappeared. It thrived in the decade 1850-1860.³

The planters of the Upper South were growers of tobacco and breeders of slaves. Unlike other southern

3. Clara M. Moeschler, The African Slave Trade--Reopen or Suppress 1850-1860 (Madison, 1922).

staples, tobacco culture required little land and few slaves. Though border state southerners indignantly denied it, their unpremeditated role in the slavery system was largely to produce more blacks for labor in the Lower South.⁴

Despite the huge demand for slaves the American South was not the best and most favored market in the western hemisphere for imported Africans. The Spanish colonies were the best marts, especially Brazil, Porto Rico, and Cuba. Spanish law and enforcement against slavery and slave importations were notoriously lax. Where and when legal barriers did exist, bribery of Spanish officials usually accomplished the desired result.⁵ All of the United States, particularly the coastal states, had earlier passed laws against African importation, making the trade illegal and smuggling necessary. The Federal Constitution barred the slave trade after 1808 and further federal legislation against slavery always posed a threat. Great Britain had earlier freed the slaves in her colonies and with her powerful navy she harassed the slavers on the high seas. All these factors made the slave trade business illegal and extremely

4. Slave breeding was probably not premeditated and intentional. Natural increase in the slave population and no place to use this added labor caused many sales of Negroes to the Lower South. Bankruptcy and crop diversification added to the stream of slaves "sold down the river."

5. C. Alexander, The African Repository, Vol.41-42, 115.

hazardous. Extremely hostile American anti-slavery legislation, state and federal, caused slavers to prefer the more receptive Spanish colonies, especially Cuba, for marketing places. Up to 1865, "importation of Africans into Cuba has averaged 20,000 per annum and this despite combined efforts of the leading commercial nations and the claims of innocence on the part of Spain in her own behalf."⁶ Brazil had declined in importance before the Civil War. Though traders preferred Cuba the American South furnished a risky market for imported Africans, as well as some of the capital and facilities for carrying on the trade.

New Orleans, Louisiana, and Charleston, South Carolina, constituted the main southern ports of departure for slavers. Hidden, secret coves along the coast marked debarkation points for human cargo consigned to the United States. "A cargo of six hundred Africans had been landed on the Florida coast, near Smyrna, (1860) and as soon as the landing was effected, the vessel was set on fire and abandoned to the elements."⁷ Traders devised all kinds of dodges and trickery to escape detection and capture. They used all types of sailing craft depending

6. Alexander, The African Repository, Vol.41-42, 115.

7. Twenty-Seventh Annual Report of the American Anti-Slavery Society (New York, 1861), 22.

on the time, size, and destination of the venture. Some vessels were large, some were small, others were fast, still others were slow. At different times and in varying situations traders used yachts, barks, brigs, schooners, steamers, and small coasting vessels.

Many of the slavers were both the captain and entrepreneur of their venture. Others, like Albert E. Horn, a New York City merchant, owned the vessel and hired their sea captain.⁸ In some cases a syndicate of owners shared the profit or loss.⁹ In rare cases individuals kidnapped blacks off the islands of the Caribbean Sea and sold them into slavery on the continent.¹⁰ Finally, the small-time southern slaver plied his trade between the Cuban markets and the continents, as the story of the *Amistad*, "a Cuban coastwise slaver that may have been used to smuggle slaves into the U. S.", indicated.¹¹

Whatever the methods and extent, southerners usually denied complicity in the African slave trade and

8. Twenty-Seventh Annual Report, 23; New York Tribune, November 26, 1862.

9. A story of joint ownership and doublecross. William Howard Russell, My Diary, North and South, (Boston, 1863), 183-9.

10. Colonel Henry Brown kidnapped Negroes to work on fortifications of Fort Pickens. Ibid., 271.

11. John R. Spears, The American Slave-Trade. An Account of Its Origin, Growth, and Suppression. (London, 1901); Hubert H. Aimes, A History of Slavery in Cuba, 1511 to 1868. (New York, 1907), 245. "Slaves were re-exported from Cuba to the States, but in what numbers it is not possible to say."

claimed that northerners alone perpetuated the traffic.¹² "The slave trade is carried on between Africa and Cuba alone; Southern men have nothing to do with it. Yankee captains, Yankee ships, Yankee ship-chandlers, (ship-owners) and the Yankee capital, are the notorious mainsprings of that trade," commented William Yancey, southern firebrand.¹³

Ante-bellum New York City was the hub of the slave trade.¹⁴ Boston, Philadelphia, and Baltimore also dispatched many of the big ships for trade mostly between Africa and Cuba.¹⁵ Most American slave ships were built, financed and sailed from northeastern ports. In fact, Americans built many of the vessels sailing under foreign registry. "From April, 1857, to May, 1858, twenty-one of twenty-two slavers which were seized by the British cruisers proved to be American, from New York, Boston, and New Orleans."¹⁶ Thus, while New England abolitionists ranted

12. An exception was Charles Lamar of the ship "Wanderer."

13. John E. Cairnes, "The Southern Confederacy and the African Slave Trade," in Rebellion Pamphlets, Vol. 45, (Dublin, 1863), 11.

14. Rufus W. Clark, The African Slave Trade (Boston, 1860), 87.

15. Ibid., 87.

16. W. E. B. DuBois, The Suppression of the African Slave-Trade to the United States of America 1638-1870 in Harvard Historical Studies, Vol. 1, (New York, 1896), 179.

against the southern slavery system, the bulk of the African slave trade was carried on under their very noses. Through the pre-Civil War decades abolition pressure for anti-slavery legislation intensified.

Early in their existence the coastal states, northern and southern, all passed legislation designed to cripple or outlaw slave importations. The Federal Constitution prohibited the foreign slave trade from 1808 on. The slave trade was declared piracy in 1820 with penalty of death on conviction. But though the trade was declared illegal, by both federal and state governments, the laws were unenforcible. Though southern intrigue was suspected, the first constitution of the Confederacy outlawed the foreign slave trade.¹⁷

Lack of monetary implementation for law enforcement accounted for non-execution. The federal legislature refused to pass sizeable appropriations that would give power to existing laws. As a result, authorities found it cheaper and more convenient to avoid arresting suspects. Furthermore, no groups exerted real political pressure for arrests until the few years immediately preceding the war. This early apathy and do-nothing attitude largely arose from and followed general public disinterest.

17. Twenty-Eighth Annual Report of the American Anti-Slavery Society, (New York, 1861), 129.

Superior southern representation in Congress successfully parried the little anti-slavery legislation that appeared. It was only after secession that adequate laws could be passed to enforce existing measures.¹⁸ Even when slavers were apprehended, conviction was almost impossible. Before 1860, federal courts refused to convict individuals on slave trade charges. In rare cases the court condemned and sold the vessel. Usually, however, the vessel was returned to the owner. Defendants always escaped the prevailing death sentence.¹⁹ Bribery and corruption among officials often occurred in court cases just as they permeated the entire trade.²⁰ Before the war the record of the United States Navy in catching slavers on the high seas, or in the act of loading and unloading Negroes was very poor.

The United States concluded the Webster-Ashburton Treaty with Great Britain in 1842. It was agreed in Article 8 of the treaty that this country would keep an African Squadron, with a minimum of eighty guns, off the coast of Africa at all times. The theory was excellent but the practice was shameful. American naval officers shirked their duties and even refused to cooperate with the British

18. DuBois, Suppression, 191.

19. Senate Executive Documents, 37 Congress, 2 Session, No. 53.

20. Case of the "Augusta" is a good example. Ibid., No. 40, 1-65.

in apprehending slavers. Old and slow American vessels comprised the African Squadron. Since the English did not have the right to seize and search ships flying the American flag, their anti-slave trade crusade was virtually brought to a standstill. British naval officers complained loud and long to the Admiralty as slavers of all countries brazenly flaunted the American flag and serenely sailed away.²¹ Though the navy was a powerful factor in the life of the slave trade, the key to the whole situation rested with the President of the United States.

American executives, prior to Abraham Lincoln, carefully avoided entanglement with the ticklish slavery question, of which the foreign slave trade was part. Some openly voiced their dislike for slave dealings but could not, or would not, take the suppression initiative. Others reasoned it was sheer political suicide to thus challenge the South. A number of the executives confessed to southern sympathies. Presidents Pierce and Buchanan, though northerners by birth, were democrats and expansionists, anxious to placate the South. President Buchanan hesitated at first, but as the African slave trade greatly increased in 1859-1860, he bowed to the outraged public and ordered

21. DuBois, Suppression, 178.

more vigorous prosecution.²² As a result courts convicted some few slavers of this period and meted out light sentences.²³

Abraham Lincoln was an enigma on the subject but his background partially explained his stand on slavery. Lincoln was born in Kentucky of poor white parentage. Early in his life, his family moved to Indiana, then to Illinois. At the home of his wife in Lexington, Kentucky, Lincoln had ample opportunity to witness slavery and the domestic slave trade at work. He adopted Wig and Republican politics. Thus, Lincoln reflected both pro-slavery and anti-slavery sentiment.

There were numerous arrests and trials of slavers before the Lincoln Administration; but few convictions resulted. Improbability of conviction alone discouraged marshals from carrying out their duties. Courts indicted thirty-two persons in New York between 1854 and 1856. By July, 1856, only thirteen had been tried and one convicted.²⁴ President Buchanan, ardent expansionist, maintained that only the annexation of Cuba would stop the trade.²⁵

22. Moeschler, Re-Open or Suppress, 46.

23. Senate Executive Documents, 37 Congress, 2 Session, No. 53.

24. New York Herald, July 14, 1856.

25. Thomas A. Bailey, Diplomatic History of the American People (New York, 1947), 318.

Political corruption reached into the federal courts themselves.

Many cases illustrate the futility of arrest in the pre-Lincoln era. The yacht "Wanderer" was apprehended in 1859, released soon afterward, and landed a cargo of Negroes in Georgia.²⁶ Later, Secretary Seward wrote that the "Wanderer" was the last large slave ship to American shores.²⁷ Charles Lamar, self-allegedly the owner of the "Wanderer" but actually only agent for a syndicate of eight men from Mississippi, appeared for judgment under the law of 1807 but no southern jury would convict him. His captain, Farnham, and two mates also escaped punishment in the Savannah, Georgia court.

Authorities seized the "Emily" on suspicion and soon released the vessel, only to catch the bark later off the coast of Africa with a cargo of Negroes aboard. Naval authorities sent the boat to New York but the slaver mysteriously disappeared enroute.²⁸

Government spies and interested people frequently wrote to literary publications of happenings in their

26. Twenty-Seventh Annual Report, 25-26; New York Tribune, May 30, 1860.

27. Senate Executive Documents, 37 Congress, 2 session, No. 57.

28. Twenty-Seventh Annual Report, 26-27.

locality. "A writer, dating from the West Coast of Africa, June 3, 1861, mentions several American vessels which have been sent home and condemned as engaged in the Slave Trade, and have again visited the African coast and taken off slaves, or are prepared to receive them for Cuba. Among them are named the "Virginian," "Falmouth," "Triton," and "Storm King"--the last having sailed recently from the coast with six or seven hundred slaves."²⁹

Newspapers hinted political corruption in the case of the "Cora." A naval unit captured the "Cora" December 11, 1860, eighty miles from the Congo River, with 705 Negroes aboard. Apprehending authorities took the Negroes to Monrovia and the ship later sold at auction. During the trial, the Master, Joseph A. Santos, disappeared.³⁰ The "Wildfire," captured off the coast of Key West, Florida, was owned and fitted out by a mercantile house of Boston. Captain Hutchinson and crew escaped punishment, as usual.³¹ The Lowell Daily Courier noted a rise in slavery arrests in 1860 and sarcastically commented, "Captain and two mates were fined and imprisoned for two or three years. This is a considerable falling off from the death penalty for piracy yet it is noteworthy that the conscience of

29. African Repository, Vol. 37, 287.

30. New York Times, December 11, 1860.

31. New York Times, July 4, 1860; New York Herald, July 14, 1860.

United States officials will inflict even a slight punishment for the offense of stealing men to sell into slavery."³²

The case of the "Augusta" was an example of transition from the old regime of corruption and non-enforcement into the Lincoln reform era. This sensational case involved people in high places and newspapers charged collusion of federal officers with slavers.³³ After this case, courts and officials decided it was best and safest to honestly prosecute slavery cases.

Meanwhile, American public opinion, stirred by secession and war, became radically anti-slave trade. In tune with the new order President Lincoln immediately took steps to suppress the African slave trade. At the same time, while Civil war raged, he vacillated for two years over domestic slavery.³⁴ The chief executive called Secretary of the Interior, Caleb B. Smith, before the presidential carpet and charged him with the stupendous task of organizing and directing active execution of existing laws to suppress the foreign slave trade as quickly as possible.³⁵

32. Lowell Daily Courier, Lowell, Massachusetts, November 10, 1860; Moeschler, Re-Open or Suppress, 39.

33. New York Tribune, November 26, 1861.

34. Lincoln was careful not to offend slave-holding border states, Maryland, Delaware, Kentucky, and Missouri, loyal to the Union. Later, he pledged compensation for freeing slaves in the border states.

35. Senate Executive Documents, 37 Congress, 2 session, No. 1.

Smith, in turn, called a conference of his marshals from the coastal sections and unequivocally announced the necessity of action and arrests to stamp out the trade.³⁶ Simultaneously, Congress, spurred on by the President and public, passed long needed appropriations to implement the work of the navy and the marshals. Two appropriations of \$900,000 each passed early in 1861. Four appropriations of \$17,000 each followed during 1863 to 1867 and two of \$12,500 in 1868 and 1869.³⁷

The new aggressive policy on the home front produced gratifying results. Within eighteen months, the activity of the navy, marshals, and public opinion shattered the American trade. Arresting authorities quickly seized and condemned five vessels. Four individuals suffered heavy legal penalties.³⁸ The case of the "Erie" was the most paralyzing blow to American slavers.

As previously mentioned, conviction and execution of Captain Nathaniel Gordon marked the beginning of the end for American participation in the slave trade. The United States Steamer "Mohican" captured the "Erie" August 8, 1860, off the Congo River with 997 slaves

36. DuBois, Suppression, 192.

37. Ibid., 191.

38. Senate Executive Documents, 37 Congress, 2 Session, No. 1.

aboard.³⁹ The captors landed the slaves at Monrovia and took Gordon to New York to stand trial before the Southern District Court of New York. Having been implicated twice before, Gordon was an old offender. The court finally convicted him under the Piracy Law of 1820 and sentenced him to be hung. Cautious authorities stationed federal troops in the prison to prevent last minute rescue by friends, but no incident delayed the execution. Thus, Gordon was the first and only American slaver to legally suffer the death penalty.

Other slavers, caught in the reform net, suffered less severe penalties. Outwardly respectable Albert E. Horn, a Beaver Street merchant in New York City, capitulated quietly to arresting officers in his office. The court charged him with fitting out the steamer, "City of Norfolk" of the Savannah Line, to engage in the slave trade.⁴⁰ The ship sailed first from New York City to St. Thomas. There, the vessel changed captains and proceeded to the coast of Africa. The slaver loaded a cargo of Negroes aboard and sailed to Cuba. There, the dealers sold the slaves and abandoned the vessel. "The profit on a cargo of slaves is such that if the venture succeeds, the loss of the vessel is nothing."⁴¹ The court convicted

39. House Executive Documents, 36 Congress, 2 Session, No. 4.

40. African Repository, Vol. 38, 373-374; New York Herald October 30, 1862.

41. African Repository, Vol. 38, 374-375.

and sentenced him to prison for from three to seven years, with a fine of \$1,000 to \$3,000. A few years previous his conviction would have been improbable.

A third case attested the aggressiveness of the reform campaign. Joseph A. Santos, as mentioned, suffered arrest two years previous for fitting out the bark "Cora." The navy seized this vessel on the coast of Africa, in the fall of 1860, with a full cargo of Negroes. The court freed Santos under bail of \$5,000, pending his trial, and he remained in New York City. The case finally came to trial but before all legal argument was over Santos suddenly disappeared. His friends quietly paid his forfeited bond. Nobody denied that Santos' security lay only in flight.⁴²

Other slavers in New York City ran afoul of the new order. Notorious John A. Machado and Mary Jane Watson escaped the reform net by fleeing first to Havana, then to Cadiz, Spain. Appleton Oaksmith, identified with the "Augusta" scandal, surrendered to authorities who placed him in a Boston Jail. But with the aid of friends, he escaped and fled to Cuba. "Thus, in the short space of eighteen months, a brave conscientious marshal, (Robert Murray), backed by an honest prosecuting attorney, and an upright judge, has broken up, root and branch, all illegal

42. African Repository, Vol. 38, 374.

traffic, which commanded unbounded capital, and so suborned our public officers that it laughed the cruisers of two nations to scorn."⁴³

Having sealed the home ports, Lincoln warmed to the task of suppression on the high seas, a job which involved close cooperation with the British. The President instructed Secretary of the State, William Seward, to conduct negotiations with Great Britain for a mutual treaty to suppress the international slave trade. For decades Britain had vainly coaxed and argued for a treaty embodying cooperation and mutual right of search and seizure. The Webster-Ashburton Treaty of 1842 sorely disappointed the British in its slave trade results. Consequently, when Secretary Seward contacted Lord Lyons through diplomatic channels, the Briton, speaking for his government, was eager to formulate a treaty.⁴⁴ It was incidentally advantageous for the Federal Government to enter into a mutual treaty with the British; for, though the Union sacrificed her sovereign right of search and seizure, Lincoln's government gained a measure of British friendship at a time when British neutrality was extremely important.

After rapid deliberations, negotiators concluded the treaty at Washington on April 7, 1862, and exchanged

43. African Repository, Vol. 38, 375.

44. Senate Executive Documents, 37 Congress, 2 Session, No. 57.

ratifications in London, April, 20.⁴⁵ The treaty lasted for ten years. If the African slave trade survived that period, "some new and probably different means from that which the treaty proposes will become necessary for the vindication of the cause of humanity in common," wrote Seward to Lord Lyons before the signing.⁴⁶ The treaty conceded both countries the all important right of search and seizure of any suspected slavers within two hundred miles of the African coast, to the thirty-second parallel of south latitude, and within thirty leagues from the coast of Cuba. By-laws established courts of mixed commission at New York, Sierra Leone, and the Cape of Good Hope⁴⁷ and punished convicted slavers according to the laws of their respective countries. An added article to the treaty in 1863 enlarged the area of search. The United States Navy transported captured slaves directly to American-sponsored Negro colonies in Liberia and Monrovia. This was more expedient and cheaper than landing the captured blacks on the American coast with necessary reshipment.⁴⁸ The results of the new, international treaty

45. Senate Executive Documents, 37 Congress, 2 Session, No. 57

46. Ibid., 14.

47. African Repository, Vol. 40, 41.

48. House of Representatives Executive Documents, 36 Congress, 2 Session, No. 4.

proved excellent. Intensive enforcement broke the enemy's back; for, the foreign slave trade collapsed after passage of this "Magna Charta" of the anti-slave trade forces.

Thus, direct American participation in the African slave trade expired during the Civil War. Many factors contributed to the finale. The Union blockade of southern ports prevented Confederates from importing Africans and a new and aggressive prosecution of slavers by the Federal government and the courts quickly brought northern participation under control. The Anglo-American Treaty of 1862 enabled both nations to attack the international traffic and bring it within bounds. Authorities needed additional amendments and legislation to completely suppress the trade but new measures were anti-climactical. In 1863, Lincoln's Emancipation Proclamation narrowed the potential market. In 1864, Congress prohibited the coastwise trade forever. The Thirteenth Amendment to the Constitution, 1865, abolished slavery forever in the United States.

Nevertheless, a few slavers remained afloat after the Civil War and a few Americans owned slaves; for, slavery persisted in Cuba long after the American Civil War.⁴⁹ The Cuban plantation system, under Spanish masters, still flourished for the growing of sugar-cane. A few Americans owned shares in some of the sugar plantations,

49. Spears, American Slave Trade, 216.

technically making them slave owners. After final closing of American ports of departure, slavers sailed from French and Spanish ports, chiefly Marseilles and Cadiz. Their objective was to supply the Cuban and Porto Rican labor market; but, British and American war vessels, at long last sensing victory, hounded the few remaining slavers unmercifully. The American Congress voted extra appropriations and added more American vessels to the African Squadron. Finally, in 1886 Cuba abolished the slavery system and the international phase of the African slave trade, because of lack of markets and intensive persecution, quickly melted away.

Chapter II

End of the Domestic Slave Trade in the South

Before the triumphal entry of Federal troops into Richmond, Virginia, April 2, 1865, proprietor Robert Lumpkin frantically cast about for some means to evacuate his slave jail. Desperate, he finally conceived the idea of hiding them aboard the evacuation train reserved for Jefferson Davis, President of the Confederate States of America, and other high officials. Lumpkin marched his slaves to the railroad station but guards stopped him before he could load the Negroes aboard. With no other choice, the slave dealer marched his slaves back to the lockup. Jefferson Davis made good his last minute escape to Georgia and the next day Federal troops, led by Negro soldiers, marched through battered and burning Richmond streets. The soldiers paused momentarily before Lumpkin's Slave Jail to listen to the joyous, "Slavery Chain Done Broke at Las'."¹ The fall of Richmond signalled the end of the Civil War, the end of the Confederacy, and the end of slavery.

Though slave trade in a local sense was common

1. John W. Carmody, Administrator, Federal Works Agency, The Negro in Virginia, (New York, 1940) 201.

from the beginning, the domestic trade greatly expanded after 1808.² As early as 1840, the seacoast states of Virginia, Maryland, Delaware, District of Columbia, and North Carolina became slave-exporting states. Virginia led in the number of slaves transported to the Lower South.³ The trade greatly expanded from 1840-1860 because of several factors; pronouncement of illegality of the African slave trade, expansion of the United States, and fuller adaptation of "King Cotton".⁴ Annexation of Texas in 1845, cheap Southwest land, and invention of the cotton gin furthered the demand for slave labor, raised prices, and stimulated the trade.⁵ South Carolina and Georgia later joined the slave export business.⁶ Foreign slave importation was unable to fill the demand; for, though the number of illegal importations of African Negroes between 1808 and 1860 may have been as high as two hundred and seventy thousand, there were still not enough to substan-

2. A brief historical recapitulation and pre-war survey of the extent and methods of the domestic slave trade is necessary to fully understand its wartime decline and demise.

3. A. A. Taylor, "The Movement of Negroes from the East to the Gulf States from 1830-1850", Journal of Negro History, 8:367.

4. John W. Coleman, Jr., Slavery Times in Kentucky (Chapel Hill, 1940), 145.

5. Coleman, Slavery Times in Kentucky, 143.

6. Taylor, "Movement of Negroes," 367-368.

tially effect the labor supply.⁷ American-born Negroes thus furnished the great bulk of supply for the Southern labor market.

The South remained primarily agricultural as the North, casting aside slavery, eagerly adopted industrialization and free labor. "They found a cheaper pauper labor to replace it--that pauper labor poured in from Europe..."⁸ Immigrant labor in the North, moreover, increased political representation so that "more than 5,000,000 from abroad have been added to their numbers: that addition has enabled them to grasp and hold the government."⁹ Competition between the sections created friction and ultimately caused war; one section determined to preserve slavery and states rights, the other democracy and union.

Though a few years earlier Southern advocates for revival of the African slave trade vigorously argued that there was no difference between importing and selling an African or selling a Virginia or Carolina Negro, the first Confederate Constitution abolished the African slave trade while preserving domestic slavery.

Opponents of the foreign slave trade,

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7. Ulrich B. Phillips, American Negro Slavery A Survey of the Supply, Employment and Control of Negro Labor as Determined by the Plantation System (New York, 1927).
 8. Letter from L. W. Spratt, South Carolina, to Honorable John Perkins, Delegate from Louisiana, June 1861, in Southern Literary Messenger, 32, June 1861, 409-420.
 9. Letter from L. W. Spratt to Honorable John Perkins, in Southern Literary Messenger, 32, June 1861, 419.

claimed a vast difference in the systems of trade. Virginia and Carolina Negroes were civilized; African Negroes were barbarians, they insisted. Therefore, African importations would pollute the domestic supply. Many Southerners abhorred the African slave trade on moral grounds and privately threatened rebellion against slavery if the foreign trade were revived.¹⁰

Not all Negroes in the South were slaves; for many Southern blacks were free, emancipated by will of their owner or born of free parents. Before the Civil War there were a half million free blacks in the United States.¹¹ Most of these free Negroes flocked to the cities for employment. They worked in tobacco warehouses or as cooks and domestics. A few worked at skilled trades. In a few communities along the seacoast the free Negroes developed a respectable, economically independent, and class-conscious group. This was noted in Charleston, South Carolina.¹² The census of 1790 showed Virginia with a slave population of 270,762 and a free Negro population of 296,852.¹³ One free Negro, Reuben West, was a barber.

10. William S. Jenkins, Pro-Slavery Thought in the Old South (Chapel Hill, 1935), 98. Representative Pettigrew of South Carolina House of Representatives argued in this manner.

11. E. Horace Fitchett, "The Traditions of the Free Negro in Charleston, South Carolina", Journal of Negro History, 25:139.

12. Ibid., 139.

13. Carmody, Negro in Virginia, 159.

He owned and paid taxes on property worth \$4,420 in Richmond. In addition, he owned two slave barbers and a domestic for household work.¹⁴ Many other free Negroes owned and paid taxes on property.

All of the slave-holding states had laws which deprived the free Negro of education, suffrage, and freedom of movement.¹⁵ Laws of some states were harsher than those of others. North Carolina's anti-free Negro laws were so stringent that many free Negroes petitioned the State Legislature to be re-assigned as slaves of chosen masters.¹⁶ Free Negroes were lost to the slave market except when kidnapped and sold into slavery.¹⁷ Most free blacks congregated in the cities, but the slave was subject to the will of his master. Many slaves were taken by their migrating master to new cotton lands. Simultaneously, "an elaborate traffic sprang up between Virginia and the Carolinas, where the plantation was in decline, and Alabama, Florida, and Mississippi, where transported slaves were used to work new lands."¹⁸

14. Carmody, Negro in Virginia, 122.

15. Fitchett, "Traditions of Free Negro," 139.

16. John Hope Franklin, "The Enslavement of Free Negroes in North Carolina" Journal of Negro History, 29: 401-428.

17. William T. Laprade, "The Domestic Slave Trade in the District of Columbia," Journal of Negro History, 11: 17-34.

18. Francis B. Simpkins, The South Old and New, A History 1820-1947 (New York, 1948), 41.

The interstate traffic reached its peak 1815-1860, especially before the panic of 1837.¹⁹ Approximately 6,000 Negroes a year were exported from Virginia to other states. Partially reflecting the slave trade the entire population of Virginia registered a decline of 3% in 1830.²⁰ This Negro exportation was said to be an economic advantage for the State.²¹ It caused planters "to encourage breeding, and to cause the greatest number to be raised. Virginia is, in fact, a negro-raising State for the other states."²² In the decade 1830-1840, 117,938 Negroes moved to the Lower South. 180,000 migrated in the decade 1840-1850 and 230,000 in the next decade, reflecting an over increasing traffic.²³ "For five decades a prime field hand brought \$500 more in the New Orleans markets than in those of Virginia. A single trader, Isaac Franklin of Tennessee, was said to have made a million dollars."²⁴ Abolitionists also branded Kentucky and Maryland slave breeding states.

19. Phillips, American Negro Slavery, 190.

20. Thomas R. Dew, The Pro-Slavery Argument, (Charleston, 1852), 369-370.

21. The State of Virginia lowered her black population and had a sizeable income.

22. Cairnes, "Southern Confederacy and the African Slave Trade," (Professor Thomas Dew, a Virginian authority originally made this often quoted, argumentative statement.)

23. Frederick Bancroft, Slave-Trading in the Old South (Baltimore, 1931), 382-406.

24. Simpkins, South Old and New, 42; Wendell H. Stephenson, Isaac Franklin Slave Trader and Planter of the Old South (University La., 1938).

Tennessee forbade the interstate traffic from 1826 to 1855 but after removal of the prohibition, the trade quickly developed.²⁵

The domestic slave trade functioned partly systematically and partly casually.²⁶ Individual planters, merchants, and real estate brokers often dabbled in the trade when profitable. Back-fence swapping, sheriff and executors sales, and auctions were common to local scenes. Gradually, some Southerners devoted more and more time to the lucrative buying and selling of slaves. Eventually, avocation became vocation for a few. In every city full time brokers, competing with part time brokers and amateurs, bought and sold slaves on commission. For example, the most prominent Louisville, Kentucky, traders from 1845-1860 were: John Clark, William Kelley, William F. Talbot, Thomas Powell, John Mattingly, and brothers Jordan and Tarleton Arteburn.²⁷ By 1858, more than two dozen traders in Lexington advertised regularly.

Slave pens and slave markets existed in the poorer sections of all large cities and local dealers kept

25. Tennessee largely acted as a "between-station" from Kentucky to the Lower South. Memphis developed into a first class market but Nashville remained chiefly as a point of dispersion for slaves south-bound.

26. Phillips, American Negro Slavery, 190.

27. Coleman, Slavery in Kentucky, 166.

domestics, artisans, field hands, and good-looking wenches in stock at all times. Though the domestic slave trade was legal; traders were allegedly social outcasts.²⁸ The very nature of the trade brutalized and perverted the regular trader.

The intrastate slave trade was a common characteristic of the Old South; but the larger, interstate trade was more spectacular. Large slave trading companies, well organized and efficient, handled much of the interstate trade.²⁹ These companies maintained their own town traders and slave-jail proprietors in the large towns of the Upper South. Town representatives, in turn, sent personal agents into the country to purchase slaves from the plantation owners. Buying and selling also took place in town between the trader and the planter. The town trader endeavored to maintain friendly relations with the local planters at all times in the interest of future business.

Slaves sold to agents of an interstate company were mostly mental or physical misfits, unruly individuals, or

28. The large numbers of "part time" traders who were thoroughly respectable people seems to refute, or lessen, the idea that the slave trader was socially ostracized.

29. Mathews, Branton and Co., and Griffin and Pullum serviced the Natchez area. Griffin and Pullum advertised "Fresh Arrivals Weekly." Bancroft, Slave Trading, 304. Franklin and Armfield of Alexandria and Dickins and Co., were also examples of large companies engaged in the slave trade.

luckless property of a bankrupt owner. Most Negroes did not mind "Caroliny" so much, but they dreaded "being sold down the river" to Mississippi and Louisiana; for, they had heard disquieting stories of overwork, cruel masters, and blistering rice, cotton, and sugar-cane fields of the Lower South.³⁰ Owners often worked on this fear to maintain discipline and increase production. Slaves culled from the local plantations were kept in city slave jails or depots. Dealers sold some locally and kept the rest until they collected a sizeable slave gang of coffle. The traders then moved their slaves to markets of the Lower South by diverse transportation methods. The shipping point and final destination regulated the mode of travel of the interstate slave trade.

In general, slave coffles usually followed the route of other migrants. Negroes collected at coastal ports by large companies were frequently sent to New Orleans on small coastwise vessels. "A regular schedule of slave ships was maintained between Norfolk, Savannah, and New Orleans."³¹ Franklin and Armfield of Alexandria, Virginia, shipped slaves once every two months to New Orleans.³²

30. Carmody, Negroes in Virginia, 167. Those who had bad working conditions and brutal masters probably did not mind being sold.

31. Ibid., 166.

32. Phillips, American Negro Slavery, 194.

The number of slaves that traveled the sea lanes between 1815 and 1860 annually averaged 2,000 to 5,000. This figure included several hundred body servants of migratory masters.³³ Frequently sea-faring traders covered themselves against loss of their slaves by purchasing marine insurance.³⁴

Traders close to the Ohio and Mississippi Rivers and their tributaries favored river transportation. In fall and winter dealers generally transported Negroes from Kentucky down the rivers for sale in Mississippi and Louisiana.³⁵ In the early days, traders used flatboats to transport their human cargo. Later, the faster steamboat carried Negroes. River transportation had certain advantages over the common land march; for, mutiny or flight rarely occurred aboard the steamboat. Chains fastened the Negroes securely to the deck until the vessel reached the junction of the Ohio and Mississippi Rivers.³⁶

33. Phillips, American Negro Slavery, 195.

34. Ibid., 195. For example: The Louisiana Insurance Company issued marine insurance on a coastwise shipment of slaves by William Kenner and Co., on the brig "Fame," February 18, 1822.

35. Coleman, Slavery in Kentucky, 184.

36. Ibid., 174-176. September 17, 1826, seventy-seven slaves mutinied on a flatboat on the Ohio River, about ninety miles below Louisville. They surprised and killed the trader, Edward Stone, and crew, and weighted and sank the bodies in the river, plundered and sank the boat, then brazenly marched through the Indiana countryside. Authori-

Also aboard ship slaves suffered little physical exhaustion. Since the settlement of the Ohio and Mississippi Valley, the rivers of the area were the common and most efficient routes to the Lower South. To protect his investment the cautious river trader, like his coastwise counterpart, purchased marine insurance on his slaves. This insurance covered; death, illness, accident, and escape, while in transit. Generally, slaves ate well and lived well aboard ship so they would appear contented and healthy at the market. Often, before reaching Natchez or New Orleans, dealers sold slaves at "whistle stops" along the way. Shrewd river traders advertised their stops and wares well in advance.

The overland march was a common form of slave transportation in the summer months. Only the younger and hardier Negroes walked the long distance to their marketing destination. Most slaves that composed the overland coffles were between fifteen and forty-five years of age. The accompanying trader fed them well and usually tried to keep their morale high in the interest of harmony. The coffle generally started walking about daybreak and stopped

36. (Continued) ties finally captured them and returned them to Hardinburg, Kentucky, for punishment. Five ring-leaders were hung November 29, 1826, forty-seven were sold down the river, and the remaining slaves, unwilling accomplices, were brought back to Bourbon County.

about three o'clock. Supply wagons and ambulances accompanied the larger coffles. Chains covered the male slaves, and female blacks walked, unfettered, behind.³⁷ The coflle usually stopped at a wayside farmhouse for the night. The chained slaves slept in the haystack.

Overland coffles followed the main arteries of land traffic from North to South and were frequent sights to stagecoach riders. Slaves from Kentucky traveled the Louisville and Nashville Turnpike. Virginia coffles, heading southwest, generally crossed the state line at Danville, after passing through Lynchburg.³⁸ Virginia's Shenandoah Valley furnished a route to Georgia and Alabama. The Natchez Trace, from Nashville to Natchez, led to Mississippi and Louisiana. Traders sacrificed speed afoot in the interest of health. Carefully regulated march hardened slaves to endure Lower South extreme working conditions. Railroads, where and when they existed, sometimes hauled slaves southward. All the larger cities of the Lower South had slave markets that sold both locally acquired slaves and imported stock.

New Orleans possessed the largest slave market of the South. This market, as did others on a smaller scale, bought and sold slaves locally. To fill a heavy demand,

37. Coleman, Slavery in Kentucky, 184.

38. Carmody, Negro in Virginia, 168.

New Orleans slave brokers imported Negroes from far away border states. Many Texas cotton planters journeyed to New Orleans to purchase slaves for their new plantations. Some intrepid planters of the Lower South made the long trip to the border states to purchase and transport their own slaves. Dealers from Mobile, Natchez, and Galveston frequently bought slaves at New Orleans to replenish depleted stocks.³⁹

Natchez was also a large center for dealings in slaves. Immediately outside Natchez was a large slave-pen called "Forks of the Road."⁴⁰ This well-known market consisted of several low frame buildings enclosing a courtyard. Slaves lounged about the yard amusing themselves as best they could. When a prospective buyer entered, they automatically lined up for inspection, men on one side women on the other. The best slaves generally sold in private sales at the slave-pen and the "culls" later sold at auction. In order for the trader to realize a profit his prices had to cover feeding, clothing, shelter, transportation, illness, death, accident, and escape. Charleston, South Carolina, Alexandria, Virginia, and Lexington, Kentucky, were large trading centers in their respective regions. Smaller sub-regional city-markets, with small-

39. Phillips, American Negro Slavery, 155.

40. Coleman, Slavery in Kentucky, 184.

time dealers, furnished remote communities.

Selling prices of slaves widely fluctuated. For purposes of sale dealers primarily catalogued slaves by sex and age. In general women sold for about three-fourths the price of men and boys of corresponding ages.⁴¹ Both sexes declined in value after they passed thirty years and until they reached sixty-five, at which age they were considered valueless. Next, slaves divided into three groups, representing occupational skill: domestics or household slaves, artisans or skilled craftsmen, and field hands. Artisans were investment property since they could be hired out and the owner collect his slave's wages.⁴² "High Yellows", Negro girls of light coloration, mulattos, quadroons, and octaroons, in demand for concubinage, also brought high prices in the markets.⁴³

Sale prices were partly contingent on the personality and physical appearance of the slave. The old precept "caveat emptor" prevailed as buyers always had to beware the shoddy sales tricks of the traders. Slaves repeated an age assigned them by the trader or they were punished for

41. Simpkins, South Old and New, 43.

42. Carmody, Negro in Virginia, 50. The Tredegar Iron Works on Belle Isle of the James River, between Richmond and Manchester, hired Negroes for \$10-\$15 monthly.

43. Coleman, Slavery in Kentucky, 157. Slave trader Lewis C. Robards of Lexington, Kentucky advertised a choice stock of female slaves.

failure to do so. Traders often blackened greying hairs, or plucked whiskers, to make slaves look younger and thus fetch a higher price. Frequently, slaves for sale had to perform some physical contortion to prove to the prospective buyer that they were still young and agile. Buyers examined teeth and muscles. Slaves attempted to look smart, spry, and happy before buyers in order to enhance their value. Slaves, themselves, loved to brag of the good price they commanded.

With the expansion of the cotton kingdom sale prices of slaves greatly increased. In Virginia in 1845 the price of a prime field hand was \$550. In 1860 the price was about \$1250. In New Orleans, 1845, the price was \$700 and in 1860 the price was \$1800.⁴⁴ The difference of \$550 in 1860 between the price in Virginia and the price in New Orleans readily accounted for a boom in the interstate trade.

The various states tried to regulate the slave trade within their borders but at the same time they carefully avoided destroying it. From time to time Kentucky, Maryland, and Louisiana passed legislation to control slave trade entering the respective State. State legislators entertained the theory that a "buying" state drained away its money and added Negroes to its population whereas a

44. Phillips, American Negro Slavery, 204.

selling state increased its money supply and decreased the number of blacks in the population. Unfortunately for state legislation, laws could not constitutionally be passed barring a citizen from bringing slaves into the state for private use.

In 1833 Kentucky passed a law forbidding Negro importation into the state for purpose of sale.⁴⁵ This restricted the internal, local trade in Kentucky; for, traders had to rely on natural increase of Negroes within the State for sales stock. By the terms of the law, owners bringing slaves into the State had to swear they would not sell them. In 1849 the Kentucky Legislature repealed the act and thereafter Kentucky slave traders, in greatly increased numbers, carried on, unmolested, all the variations of the trade.

Louisiana passed a bill in the early 1830's, which required a certificate, attesting to the slave's former home and character and the trader's right of ownership. This certificate accompanied every slave imported into the state.⁴⁶ These certificates prevented kidnapped free Negroes, stolen slaves, and Negroes illegally sold by an owner in default of a mortgage, from being fraudulently

45. Coleman, Slavery in Kentucky, 149.

46. Phillips, American Negro Slavery, 155.

sold. By 1860 the domestic slave trade of the South, in all its variations, was large and well-organized.

While secession and formation of the Confederacy did not alter the economic-labor system of the South, Union offensive warfare ultimately affected the slave trade. Three principal objectives dominated the military plans of the Union: Effective blockade of all Confederate ports, control of the Mississippi River, and capture of Richmond. Separately, successful attainment of each goal more and more restricted the slave trade. Together, they spelled military defeat for the Confederacy and the end of slavery.

As the campaign wore on, the sales volume of slave trade, local and interstate, dwindled. As an increasing number of white masters reported for military duty, plantations worked fewer slaves. Disorganization and decay penetrated the interstate trade, but local trade maintained itself fairly well until Federal troops completely inundated the area.

The blockade of southern ports in April 1861 immediately closed the coastwise transportation of slaves. Smuggling into the Confederacy, past the Union coastal blockade, became an accomplished art, but the merchandise did not include slaves. The coastwise trade from eastern ports to New Orleans quickly died. Early capture of Alexandria, Virginia, in the spring of 1861 shut off one port

of departure for the seaway slave traders. The capture of New Orleans, April, 1862, cut off the main market of both the seaway route and the river route. Thus, the coastwise trade from eastern ports quickly died.

Capture of Vicksburg, July 4, 1863, gave Union forces complete control of the Mississippi River and military operations cut Texas, Arkansas, and Louisiana off from the Confederacy, closing the river route to the interstate slave trade. By the end of 1862, the Union Navy controlled all important Confederate ports except Wilmington, Charleston, and Mobile. Thus, coastal blockade and river operations of the Union incidentally, but effectually, closed the interstate water routes of the slave traders.

The overland slave trade persisted, but in a shorter and restricted setting. This phase of the slave trade was strongest in the heartland, or interior, and weakest on the outer perimeter of the Confederacy. Virginia absorbed most of the military activity as the Union Army repeatedly attempted to reach and capture Richmond, the Confederate capital.

Many planters and slave traders on the perimeter of defense evacuated their transportable possessions, including slaves, to the more secure interior. Some sold their slaves, because they could not properly use or take care of them. The slave trade gradually became restricted

to the interior of the Confederacy, the section still free of Federal invasion and threat. Union military victories relentlessly reduced the size of the safety area as the weary campaign wore on.

In the autumn of 1863, Generals Grant, Sherman, Sheridan, and Thomas, co-operated to rescue Rosecrans in Chattanooga and to win the battles of Lookout Mountain and Missionary Ridge, in Eastern Tennessee. Old slave trade routes became Union supply lines and routes of further devastation by Federal invaders. In 1864, Union General Philip Sheridan attacked and devastated Virginia's Shenandoah Valley, gateway of the slave trade to Alabama and Georgia.

In the spring of 1864, General William T. Sherman began his march through Georgia, burning and destroying as he progressed. He captured Atlanta, September 1, then advanced to Savannah and the sea. Savannah fell December 20, 1864. Thus, two main slave market sites in the interior, Atlanta and Savannah, fell to Union troops late in the war. Smaller, localized cities and villages, in the line of march, also capitulated. As Sherman marched, he destroyed railroad mileage in Georgia, effectually closing that form of transportation.

Sherman left Savannah, February 1, 1865, to advance against the Carolinas and before he halted, he had captured Columbia, Goldsboro, and Wilmington. Charleston finally

fell February 18, taken by a Federal fleet. The slave trade of the area, along with most other southern ways of life, ended by this sudden irruption of Federal forces. With most of the sources of supply and the slave markets under Union Army control, only remote neighborhood buying and selling existed.

During the war, slave prices and volume of sales in the Confederacy reflected three factors, namely; southern victory or defeat, currency fluctuations, and the shifting population. Prices of slaves in general displayed an increase in the actual sale price of the slave, accompanied by a decrease in real value, and a shrinkage in the volume of trade. In 1845, an unskilled, prime field hand in Middle Georgia sold for \$650.⁴⁷ In 1860, the average price was \$1800. By February, 1865, an adult male slave sold for \$5,000 in Confederate bills and in March of 1865 the sale price was \$10,000. Meanwhile, the real value, pegged to a corresponding value of gold, decreased as rapidly as the actual sales price increased. In 1861, \$1,160 Confederate currency was worth \$1,050 in gold. But in February and March of 1865, \$5,000-\$10,000 of Confederate bills were worth only \$100 in gold.⁴⁸ All areas of the Confederacy

47. Phillips, American Negro Slavery, 204.

48. Bell, Irvin Wiley, Southern Negroes, 1861-1865 (New Haven, 1938), 89.

experienced inflationary spirals.

With Union victories, sales volume shrank. Restriction of cotton acreage for growth of food products, particularly in 1862, also lessened the demand for field hands. In 1864, there was a quickening in sales volume followed by a sharp decline. Sherman's march through Georgia and the seige of Richmond were responsible for this late 1864 decline.

Sale prices and volume differed in individual cities. The local Charleston, South Carolina, market weathered bombardment and seige to continue business until the city finally surrendered to a Federal fleet, February 18, 1865. Bombardment by the Union ships, beginning in July, 1863, caused a temporary cessation of sales until January, 1864, after which slave sales continued for the rest of the war. Despite intermittent shelling of the city, prices in Charleston were on a par with those of Richmond, Savannah, and Augusta. However, Charleston prices were a trifle lower than those in the interior cities of Raleigh and Montgomery. Texas prices were higher than those east of the Mississippi River.⁴⁹ Local sales continued in some areas until the end of the conflict.⁵⁰

49. Wiley, Southern Negroes, 89.

50. Ibid., 92-93. Sale of a Negro woman and four children for \$5,500 took place at Columbus, Georgia, in April, 1864. From April 4 to May 5, 1865, a Texas advertiser offered the exchange of a farm for Negro property. Probably news of the Confederate surrender had not yet reached these remote areas.

During the Civil War, legislation and executive enforcement against the African slave trade were direct and drastic. But Federal congressmen and the President carefully avoided passing and enforcing hostile domestic slave trade acts lest wavering border states take offense and bolt to the Confederacy. However, anti-slavery laws did incidentally affect the trade.

The Confederate Constitution, while specifically abolishing the African slave trade, protected slave property within the state, in transit from one state to another, and in any territory which might be acquired. It also provided for the return of fugitives to their masters. Subsequently, most Southern slave acts only incidentally affected the domestic slave trade; but, the Conscription, Taxation, and Funding Act of February 17, 1864, caused a temporary revival in the slave trade.

There was considerable sentiment in the Confederacy for preventing or restricting importation of slaves from border states that remained loyal to the Union, as a penalty for not joining the Confederacy. However, many Southerners thought the border states would serve a better purpose by simply remaining neutral and acting as a buffer between the warring sections.

Radical abolition sentiment of the Federal Congress clashed with the conciliatory attitude toward slavery

held by President Lincoln, and the radicals finally defeated the President after a long and bitter struggle.⁵¹ Lincoln's slavery policy was vague, but he hated the slave trader and the foreign slave trade.⁵² Immediately after his inauguration he took steps to suppress the African slave trade. Simultaneously, he announced he had no lawful right and no inclination to interfere with slavery in states where it already existed. In 1862 he declared that his paramount objective was to save the Union, with or without slavery.⁵³ To induce the border states to remain loyal to the Union, he offered Federal reimbursement to those freeing their slaves. The Negroes were then to be colonized outside the United States. Shortly afterward Lincoln issued the Emancipation Proclamation which promised freedom to Negroes in Confederate territory after January 1, 1863.⁵⁴

Though the Emancipation Proclamation did not actually free any slaves until after the war, the implied warning,

51. T. Harry Williams, Lincoln and the Radicals (Madison, 1941).

52. Coleman, Slavery in Kentucky, 170. Speech, Peoria, Illinois, Oct. 15, 1854.

53. Frank Moore (ed.), The Rebellion Record, 11 Vols. (New York, 1867), Vol. III, 33.

54. Bailey, Diplomatic History, 366-370.

coupled with Union victories in 1863, temporarily depressed sale prices and volume. Union soldiers encouraging slaves to flee their masters⁵⁵ and the threat of slave insurrection also had a dampening effect on the slave trade. Passage of the Thirteenth Amendment to the Federal Constitution, December, 1863, and ratification December, 1865, finally ended slavery and the slave trade at one stroke.

Thus, the domestic slave trade of the Confederacy withstood the first shock of war, continued during the war in a declining and restricted market, until Southern military defeat ended the trade. Military successes of the Union, implemented in a small way by Federal legislation, lessened the trade. The interstate domestic slave trade in a wartime atmosphere quickly dwindled beyond restoration. Local slave trade was hardier and persisted to the bitter end. Confederate plantation masters, slave owners and buyers, entered the military service in increasing numbers. This egress of white masters, together with a cutback in cotton planting, contributed to a decrease in the sales of field hands. City sales maintained themselves during the war, though actual prices were prohibitively high compared to real value. The Civil War

55. General Benjamin Butler at Fort Monroe, designating Negroes that entered Union lines as "contrabands", gave the blacks food, clothing, and, to some extent, useful employment.

was fought almost entirely in the South with a great deal of ruin and destruction, but the greatest single loss was property rights in slaves.⁵⁶ The domestic slave trade died during the Civil War, but lives immortalized in Stephen Collins Foster's, "My Old Kentucky Home."

56. Various authorities assess the loss between one and four billion dollars.

Chapter III

Termination of the Domestic Slave Trade in the North

Benjamin Lundy and fellow abolitionists in 1828 presented a petition to Congress for the gradual abolition of slavery in the District of Columbia.¹ More than one thousand residents of the District had signed the document, the contents of which were really a series of allegations directed against the slave trade. The petition began "there exists in the District of Columbia the seat of the National Government, a domestic slave trade, scarcely less disgraceful in its character and even more demoralizing in its influence" than the African slave trade. "Nor is this traffic confined to those who are legally slaves for life. Some who are entitled to freedom, and many who have a limited time to serve are sold into unconditioned slavery." The petition then averred that a free Negro might be jailed, under the existing conditions, and sold into slavery for his jail fees.² Other petitions for abolishment of slavery in the District usually included a plea for the ending of the slave trade.

1. Laprade, "Domestic Slave Trade in the District," 17.

2. House Executive Document, 23 Congress, 2 Session, No. 140.

Because of the favorable location of the District, between the free and slave states, it early became a depot, rather than a marketing place, for Negroes. Traders assembled slaves from neighboring states for shipment and sale in the Lower South. Re-sale transpired outside the District. With much truth the New England Anti-Slavery Society stated, "The District of Columbia is a great market to which human flesh is duly sent for sale from neighboring states, and then sold again to supply the markets of the South."³

Though the abolishment of the slavery system in the nation's capital awaited the outcome of the war, both the District and the City of Washington passed statutes designed to limit and outlaw the trade. Washington attempted to tax slave traders out of existence, with little result.⁴ One speaker ridiculed, "In the city of Washington so lucrative is the trade that licenses to carry it on are given and regularly paid for at a rate prescribed by the city corporation which is less than four hundred dollars."⁵

3. Proceedings of the New England Anti-Slavery Convention, 1834, 20.

4. This tax only confirmed abolitionist beliefs of the prosperous slave trade being carried on in the city.

5. Andrew P. Peabody in the Christian Examiner, July, 1843.

The anti-slave trade law of the District, dating back to its beginning, served only to encourage traders to circumvent it. The law reaffirmed, in effect, if a trader brought a slave into the District, "for sale or to reside," the slave could be freed; or, if sold within three years after introduction into the District from any state, except Maryland, the slave could be freed."⁶ The law did not effect buying or selling resident slaves in the District or selling slaves outside the legal area. Hence slaves could be imported after purchase elsewhere, assembled into coffles in the District, and marched to the Lower South for sale. Resident whites bought and sold resident slaves freely among themselves. Had legislation banned slave depots, traders could easily have moved to nearby Alexandria.

Senator Henry Clay of Kentucky, in 1850, proposed abolition of the slave trade in the District of Columbia as one resolution of his Omnibus Bill of 1850. After heated intersectional argument, an act to destroy the slave trade in D. C. appeared in the Compromise of 1850, to the great delight of northern abolitionists. But it was little more than a palliative to the radicals. Actually, the law accomplished little more than to ban importation of slaves from Maryland and prohibit holding

6. U. S. Statutes at Large, II, Sec. 7, 19th.

of slaves in depots for later sale elsewhere.⁷ This act came too late to be of much use; for, the slave trade in the District had diminished greatly by this time. Furthermore, it did not prohibit slave owners from buying or selling slaves in the District, nor did it prevent owners from selling slaves outside the District. However, abolitionists claimed it a sweeping victory since Congress, at long last, asserted, by legislative action, its authority to deal with slavery in the nation's capital. Abolitionists openly claimed that the fate of slavery and the slave trade everywhere rested on Congressional action in the District of Columbia.

Basic slavery and slave trade legislation of the District copied or closely resembled the laws of Maryland. In turn, Maryland laws resembled those of the other border slave states that were ultimately to adhere to the Union.⁸ In 1783, Maryland prohibited importation of African slaves. In 1817, the state passed laws regulating exportation. In 1831, legislators prohibited introducing slaves into the state for sale or residence, but this law was quickly repealed in 1833. In 1850 the state revoked all laws against importing slaves for life,

7. United States Statutes at Large, IX, 467-468.

8. Winfield H. Collins, The Domestic Slave Trade in the Southern States (New York, 1904), 120-138.

with exception of legislation excluding undesirable slaves. Thus Maryland remained open to importation of slaves into the state.

Delaware was the only slave state to include an article unfavorable to slave importation in her first state constitution. Laws governing slave exportation passed the state legislature in 1787. In 1833, an amending statute enabled farmers to export slaves to Maryland without penalty. No more important slave legislation, regarding either importing or exporting, received passage.

Missouri, in her Constitution of 1820, forbade Congress from passing laws which would prohibit emigrants from bringing their slaves into the state. However, the Constitution allowed Congress to pass legislation excluding slaves accused of high crimes, of direct African descent, or those brought in for sale or speculation. The main law, passed in 1835, prohibited introduction of criminal slaves or pure Africans. The law of 1845 concerned kidnaping. Thus borderland states formulated and crystallized basic slave legislation long before the secession movement.

The Northern states of the Union, by virtue of both federal and state legislation, were free of slavery and the domestic slave trade except for illegal trafficking. Illegal dealings in slaves were chiefly mani-

fested in kidnaping for sale both free and escaped Negroes. Kidnaping recognized no boundaries. Though largely prevalent in the border slave states, it also occurred extensively in the borderland areas of Ohio, Indiana, and Illinois as well as the large cities of the East. The business of kidnaping was semi-organized but that it was large is indicated by the severe restrictatory legislation passed by individual states. The abolitionist publication "Liberator" recorded nearly one hundred cases of kidnaping between the years 1831 and 1860.⁹ No doubt many more cases remained unnoted.

Methods of Negro stealing varied directly with the locality and the immediate situation. In some cases kidnapers carried away whole Negro families. Many of the organized gangs operated together for years, indicating at least a fair degree of success. Generally, free Negro children were most likely to be stolen since they were easier managed and less likely to possess proof of freedom. Often free colored confederates aided white kidnapers. Some persons made a living stealing Negroes from towns for sale in the South.

Kidnapers never bothered to inquire if a colored person were free or fugitive. They stole the Negro that could be easily and safely spirited away. Usually two

9. Collins, Domestic Slave Trade, 95.

or three men associated in the business. One established a reputation in a town as a slave trader while the others searched for Negroes to kidnap. When the stealers found a victim, they enticed or forced the black to accompany them to the border of the state. Then, in Illinois, slave pirates smuggled their stolen Negroes aboard ship in the Mississippi river bound for Memphis or New Orleans. In the regular slave markets of the southern cities the stolen blacks were sold into slavery.¹⁰ Frequently to evade the letter of the law, different men took the stolen blacks from county to county, and finally delivered them to agents from the South, within the limits of Illinois. Thus, these freebooting residents of Illinois were in no way guilty of abducting Negroes out of the state.

Many other methods of abduction were used.¹¹ One man in Philadelphia married mulatto women, then sold them soon afterwards as slaves. Another case involved two conspirators working together. One man found out certain body markings of a free colored victim, sufficient to identify the black, then claimed the victim as his

10. Emma Julia Scott, The Underground Railroad (Washington, Ill., 1934), 10.

11. Collins, Domestic Slave Trade, 92-93.

runaway slave. In 1825, more than twenty free colored children were kidnaped in Philadelphia. In 1849, a case appeared in which kidnapers stole four Negro children, ages 18, 17, 9, and 5, from Gallatin County, Illinois. The freebooters tied the father, then abducted the children. Members of the gang were known but could not be punished because Negroes could not serve as witnesses to identify the kidnapers.¹⁵

Maryland and Delaware recorded kidnaping cases. Even though Delaware passed harsh laws against it, kidnaping continued to flourish. A Baltimore newspaper account stated, "a most villainous system of kidnaping has been extensively carried on in the state of Delaware by a gang of scoundrels residing there, aided and abetted by a number of confederates living on the eastern shore of this state."¹⁶

The most notorious Delaware gang was led by a woman. This female kidnaper, Patty Cannon, had the heavy features of a man. Earlier the state hung her son-in-law for the murder of a slave trader. His widow, Patty's daughter, then married Joe Johnson. This second son-in-

15. Liberator, May 18, 1849.

16. Ibid., February 21, 1840.

law became a noted kidnaper through the aid and instruction of Patty Cannon. The state eventually convicted Johnson and sentenced him to public whipping. Then the state trained its legal guns on Patty. A special grand jury investigation in May of 1829 found a true bill against her on three indictments of murder but Patty Cannon died in jail May 11, 1829 before the case came to trial.¹²

Earlier, kidnaping in the District of Columbia was relatively easy. "Another shameful practice, which long was carried on with impunity in the District, was that of stealing free negroes and selling them to traders to be carried South."¹³ The District used the stringent anti-kidnaping laws of Maryland, 1800-1862, that heavily penalized any person guilty of transporting and selling a free Negro outside the District, or for bringing a free Negro into the District for sale. \$800 fine or five years in jail was the penalty. In 1831, Congress raised the penalty to \$5,000 fine and twelve years in jail. Though always present in the state, systematic

12. Liberator, February 21, 1840.

13. Laprade, "Domestic Slave Trade," 19; Mary Tremaine, Slavery in the District of Columbia; The Policy of Congress and the Struggle for Abolition (New York, 1892), 48.

kidnaping of slaves in Kentucky really began in 1841 and reached its height in 1845.¹⁴

The federal fugitive slave laws greatly aided Negro stealers; for, in the form of unprincipalled liars, kidnapers would swear a Negro belonged to them or to a person they represented. Also, state laws of Ohio, Indiana, Illinois, forbidding Negroes to settle in the state without a certificate of freedom and money for a bond, encouraged kidnapers. Judicial rulings like Prigg vs. Commonwealth of Pennsylvania caused a group of free Negroes in New York to ask William Jay, son of the Chief Justice, if they should arm and protect themselves from kidnaping. Jay advised them not to go to this extreme, but warned them that, "with your wives and children, you are now placed at the disposal of any villain who is ready to perjure himself for the price you will bring in the human shambles of the South."¹⁵ Most states passed drastic anti-kidnaping laws or statutes to enforce existing legislation. During the war kidnaping of slaves for labor existed on a broad scale by both military sides.

After secession by the states of the Lower South,

14. Ivan E. McDougale, Slavery in Kentucky, 1792-1865 (Lancaster, N. D.), 56.

15. Leo Hirsh, "Negroes in New York" in Journal of Negro History, 16: 410.

there was considerable agitation in the Confederacy for prohibiting or restricting importation of slaves from unseceded border states.¹⁶ Arguments followed that such prohibitory legislation would coerce the border states into joining the Confederacy, make the hesitating states feel some inconvenience for failure to join, and/or prevent the border states from selling all their insecure slave property, which would give them a greater incentive to join "black republicanism." However, a final argument superseded all others; that the border slave states would act as a buffer between the Union and the Confederacy, compel the Federal Government to keep hands off the Confederacy, and thus be more valuable to the Confederacy outside the Southern boundaries.

All slavery legislation, state and central, directly or inadvertently, affected the domestic slave trade. In 1861 and 1862 many bills appeared in the Federal Congress, directly against slavery, indirectly against the domestic slave trade. In the congressional session of 1862-1863, legislators introduced a bill "giving aid to Missouri for the purpose of securing abolishment of slavery in the state."¹⁷ Another "to aid West Virginia in securing the

16. Wiley, Southern Negroes, 86.

17. Congressional Globe, 37 Congress, 3 Session, 215.

speedy and final abolishment of slavery" appeared.¹⁸ Senate Bill, Number 434, appeared "granting aid of the United States to Missouri to emancipate her slaves."¹⁹ In 1863-1864 Senate Bill Number 123, anticipated the Thirteenth Amendment to the Constitution by professing "to abolish (slavery) throughout all the States and Territories in the United States."²⁰ Senate Bill Number 188, took direct aim at the domestic slave trade by containing provisions "to prohibit commerce in slaves, among the several States and the holding and transporting of human beings in any vessel within the jurisdiction of the national Government."²¹ Though most of these bills did not win final approval and enactment in the form in which legislators introduced them, they served to indicate the innermost thoughts and feelings of union legislators and their constituents. Meanwhile the borderland slave states, though considerably in the minority among the free states of the Union and in federal representation, jealously guarded their slave property with

18. Congressional Globe, 37 Congress, 3 Session, 245.

19. Ibid., 27 Congress, 3 Session, 52.

20. Ibid., 38 Congress, 1 Session, 145.

21. Ibid., 2926.

calculated state enactments.²² Soon after the war began, the borderland slave states suffered invasion by federal troops and neighboring state militias.

Maryland, West Virginia, Kentucky, and Missouri were all quickly saturated with invading forces as the federal government sought by force and politics to hold the borderland for the Union and gain an assault position against the Confederacy. Local trade continued in the slave areas occupied by the northern forces, but the presence of Yankees dampened enthusiasm and lessened sales volume. The Federal Government forbade Union troops molesting slaves of loyal masters and later offered compensated emancipation with moral aid to those masters desiring to liberate their slaves.

Despite excitement and turmoil accompanying feverish war preparations, intrastate conflict, and invasion of their borders by both belligerents, a small intrastate slave trade persisted, in ever-declining volume, in the borderland states. As the war dragged on many potential investors in slave property saw the bleak future prospects and refrained from purchasing. Most sales were public auctions to settle an estate, such as the sale that took

22. Borderland slave state Kentucky hurriedly passed legislation renouncing President Lincoln's Emancipation Proclamation of January 1, 1863.

place Monday, November 16, 1863, by the Franklin Circuit court of Kentucky.²³ The auctioneer sold three Negro men, one woman with a small child, and another with two children.

As late as the summer of 1864 when it became apparent that the Confederacy would be beaten an occasional slave sale transpired to settle an estate.²⁴ Though slave values gradually depreciated to almost nothing in the borderland states, there were optimists who believed the institution would survive; or, if emancipation passed, slave owners would at least be compensated for their losses. By the end of 1864 slavery in Kentucky appeared completely depressed as the troops of the north victoriously swept through Lower South territory.

February 2, 1864, after three years of conflict, Kentucky reenacted the law of 1798 prohibiting the importation of slaves.²⁵ Long slave trade coffles bound for the Lower South from border slave states vanished with the war. Slave jails and pens, symbols of the interstate trade, stood empty and soon even the local auction block disappeared. By the end of 1864 Negro buying and selling

23. Coleman, Slavery Times in Kentucky, 98.

24. Ibid., 140.

25. McDougle, Slavery in Kentucky, 49.

had vanished. December 18, 1865 after twenty-seven of thirty-six states had ratified the thirteenth amendment, Kentucky finally abolished slavery.

Thus, before the Civil War, the domestic slave trade of the borderland slave states consisted largely in collecting slaves for transportation and sale to the Lower South. Generally speaking, this interstate business was semi-organized. Back-fence swapping and local auctions composed neighborhood and county dealings. During the war the intrastate trade continued but on an ever-smaller, localized plane, for the most part consisting of local auctions to settle estates. The surreptitious, illegal offspring of the trade, kidnaping, often linked free states with neighboring slave areas, as kidnapers stole free, as well as fugitive, Negroes for sale South. Slavery and the domestic slave trade, in the borderland and Lower South, ended simultaneously and finally with the adoption of the Thirteenth Amendment to the Federal Constitution.

CHAPTER IV

Fugitive Slaves in the Confederacy

Three fugitive Negro slaves approached Major General Butler, shortly after the Union general captured Fortress Monroe, near Hampton, Virginia. The slaves, Shephard Mallory, Frank Baker, and James Townsend told the General of their escape from the nearby plantation of Colonel C. K. Mallory of Hampton. The Negroes claimed that their erstwhile owner intended to transport all of his slaves to Florida, an area regarded safe from Federal invasion. The slaves offered to guide Union troops to their old homestead to liberate the other slaves. Soon afterwards Major J. B. Cary of the Virginia militia, under a flag of truce, demanded the return of the three fugitive slaves. General Butler, lacking precedent, hesitated; then stoutly refused to return the fugitives. His reasoning followed the best military tradition. Virginia, at war with the Union, claimed to be a foreign state. Therefore, Negroes captured or surrendering to Union arms were "contraband of war." The three fugitives remained, and an ever increasing number of Negroes appeared at "de freedom fort", Old Point Comfort.¹

1. Carmody, Negro in Virginia, 189.

Though not immediately apparent, this stout action on the part of the Union General posed a long-range threat to the Confederacy.

Before the war the innate desire of slaves for freedom led to expressions of discontent manifested in insurrection and escape. The Gabriel Prosser Conspiracy of Virginia, August 30, 1800, remained a sordid and fearsome example to Southerners. This insurrection, though elaborately planned, failed because two "stool-pigeon" slaves, Tom and Pharoah Woolfolk, blurted the story to their master, Thomas Prosser, owner of a plantation near Richmond, Virginia. Black Gabriel Prosser had secretly organized 1100 Negroes. The slaves were to assemble at Old Brook Swamp, march six miles into Richmond, seize arms and powder, kill all who resisted except the French inhabitants, and crown Gabriel "King of Virginia". Warned in time the whites declared martial law, and aided by a fierce storm, stamped out the rebellion with brutal finality. Prosser and his chief lieutenant, Jack Bowler, escaped. Virginia vigilantes eventually caught and hung them on October 7. Later, a correspondent said if there had been no storm, the plot would have succeeded.²

2. Carmody, Negro in Virginia, 175.

The Nat Turner insurrection occurred in Virginia, August 21, 1831.³ The net result of this slave uprising counted fifty-five whites killed. About two hundred Negroes died in reprisal. Nat Turner escaped the initial dragnet, but eventually avenging whites caught and hung him. Fear partly accounted for the ferocity and brutality by which whites suppressed insurrection. In 1831-1832, the Virginia Legislature enacted "black laws", designed to forestall insurrection.⁴ The State enforced these laws until the end of the Civil War.

Negro Denmark Vesey likewise furnished an unpleasant reminder of insurrection to southern minds. Together with Negro Peter Poyas, Vesey, a free Negro of Charleston, South Carolina, organized and armed several thousand slaves for revolt. Their plan was to seize Charleston and the surrounding forts on May 25, 1822. A Negro conspirator talked and the plot failed, but the ringleaders would not confess and the jury freed them. June 16 another attempt failed. Trial of the leaders took place June 19. White

3. William Sidney Drewry, Slave Insurrections in Virginia, 1830-1865, (Washington, 1900).

4. Clement Eaton, Freedom of Thought in the Old South (Durham, N.C., 1940), 126; Acts of the General Assembly of the State of Virginia, 1831-32 (Richmond, 1832), chap. XXII, sec. 7.

southerners hanged five of the conspirators immediately, twenty-nine more later. On July 2, the day of Vesey's hanging, another attempt at revolt met State troops and defeat. It was finally necessary for the federal government to send troops to Charleston to restore order.⁵

Slave flight and escape were a more common expression of discontent than insurrection. This individual action, rather than mass revolt, occurred for many reasons. Fear of punishment was a basic motive for flight of many slaves. Others, "sold down the river" to Louisiana and Mississippi, escaped to return to family and friends in a border state. Still others fled from harsh masters and overseers. Many runaway slaves were only temporary fugitives from harvest time hard work.⁶ Some possessed a roving, daredevil personality that would not countenance long and steady labor.

The manner of slave escape in ante-bellum days differed from wartime flight. Before the war, the fugitives usually fled by night and hid, by day, in a cornfield, swamp, or thicket. The North Star was the slaves' guiding light.

5. Eaton, Freedom of Thought, 90-91.

6. Charles S. Sydnor, "Pursuing Fugitive Slaves" South Atlantic Quarterly, 28:152-164.
Professor Sydnor cited as motives for flight; the urge to renew family relationships, to escape traders or new masters, to avoid punishment, to escape hard work, or to heed abolition calls.

The Ohio River was his first main objective to "freedom-land". Thereafter, the free states, Canada, or even England, were his final destination.

Fugitive slaves of ante-bellum days numbered far less than their wartime counterparts. The Census of 1850, disclosed that 1,011 slaves escaped bondage during the year ending June 1. Of that number 540 fled from Maryland, Virginia, Kentucky, and Missouri. All other southern states lost but 470.⁷ In that same period of time owners manumitted 1,467 slaves.⁸ Thus, immediately before the war, manumissions usually exceeded fugitives.

Pre-war Southern efforts to deter slave flight or to recapture fugitive slaves expanded as abolitionists determined to assist more slaves to freedom. Slave holding states appointed "Paterollers", state or county patrolmen, to enforce existing slave codes, prevent flight, and apprehend fugitives.⁹ Patrolmen could search any house in Virginia; and any household caught sheltering a fugitive

7. Emmett D. Preston, "The Fugitive Slave Acts in Ohio," in Journal Negro History, 28:428.

8. Ibid., 428.

9. Kentucky appointed "paterollers" similar to those of Virginia in 1848. Coleman, Slavery Times in Kentucky, 95.

Negro paid a fine of \$10-\$20, half going to the informer and half to the State Literary Fund. Self-appointed, part time Negro-catchers, especially border state farmers, frequently engaged in the lucrative practice of catching and returning fugitive slaves. Locally, professional "negro-hunters" with trained "nigger-dogs" (hounds) charged \$10 a head for capturing and returning fugitives. Standard money rewards, usually based on the distance from home plantation first appeared in 1823.¹⁰ For capture of the fugitive within twenty miles of his home plantation, the usual reward was twenty-five dollars. If returned from Ohio, Pennsylvania, or Indiana, the reward was fifty dollars plus a bonus of twenty cents a mile. If returned from New York, New England, or the British provinces, the captor received a hundred and twenty dollars.

In 1855, The Virginia Slave Insurance Company developed policies covering flight. In 1856, Virginia established a special slave-capture patrol. Services of the new organization were available at the request of five or more owners. The state paid the patrolmen's fees and owners paid forty to fifty dollars for each returned slave. If the patrol captured a slave in a non-slave holding state, the owner paid a fee up to twenty-five per cent the

10. Carmody, Negro in Virginia, 129.

value of the runaway.¹¹ Other slave states, especially border states, passed similar legislation to prevent flight. Despite increased Southern legislation and activity to control and reduce slave flight, more and more Negroes succeeded in fleeing bondage. If the slave managed to cross the Ohio River into the free States, his escape was virtually assured.

The highly-secretive, fugitive-aiding Underground Railroad developed with the growth of abolition sentiment. The Railroad "had grown into a wide-spread 'institution' before the year 1840, and in several states it had existed in previous decades."¹² The Underground Railroad derived its name from its train-like structure. Levi Coffin of Cincinnati, and Robert Purvis, were "presidents" of the road. Various routes were "lines." Stopping points were "stations." Sympathizers, aiding fugitives along the route to freedom served as "conductors", and escaping slaves were "packages" or "freight". The system stretched from Kentucky and Virginia, mostly across Ohio and Indiana, sometimes via Michigan or Illinois to Canada; or it ran from Maryland to Pennsylvania, New York, and New England.

11. Carmody, Negro in Virginia, 143.

12. Wilbur H. Siebert, The Underground Railroad from Slavery to Freedom (New York, 1898), 43.

Methods were secretive because of heavy penalties of law, contempt of neighbors, and pro-Southern informers.¹³ It functioned in a partly organized and partly casual manner. Fanatical abolitionists headed the organization; free Negroes, friendly Quakers, and sympathetic whites furthered the progress of the fugitive. "Railroad" agents grew more defiant of the law with passage of the Fugitive Slave Law of 1850.

One of the chief grievances between the North and South was northern reluctance to return fugitive slaves. By terms of the Fugitive Slave Act of 1793, the owner of the slave, or his agent, could seize the fugitive, carry him before any United States judge, or before any magistrate of the city, town, or country in which the arrest was made, prove ownership, and secure a certificate that remanded the Negro back into slavery. Any person obstructing such seizure or removal, or who harbored or concealed a fugitive was liable to a fine of \$500. Abolitionists and Negro sympathizers argued that the law was unconstitutional, unjust in that it failed to provide trial by jury. It also aided kidnapers. Legislation amended the law in 1818. The law failed to wholly accomplish its purpose because enforcement was left to the individual

13. Siebert, Underground Railroad, 54.

states.¹⁴

Sectional controversy flared anew over passage of the more drastic Fugitive Slave Law of 1850. This federal legislation was an act to amend and supplement the Act of 1793. It provided that the owner or agent might enter a state, seize his fugitive slave, and secure a certificate from any judge or commissioner. The judge or commissioner must assist the claimant. The evidence of the slave could not be admitted at the trial. Claimants could not be molested from securing their slave and any citizen might be compelled to assist in capture and rendition of a slave.¹⁵

Abolitionists increased their liberation efforts and the Underground Railroad expanded to cope with hostile federal legislation. Such abolition leaders as Calvin Fairbank and Harriet Tubman literally became "Scarlet Pimpernels" as they rescued slaves from the South.¹⁶ Fanatical abolitionist John Brown brought his dramatic escapade onto the national stage and provoked federal

14. New York Tribune Edition Harper's Encyclopoedia of United States History, Vol. III, (New York, 1908) 486.

15. Henry S. Commager, ed., Documents in American History, (New York, 1944), 321-323.

16. Earl Conrad, Harriet Tubman, (Washington, 1943).

intervention. In 1859, Brown seized the arsenal at Harpers Ferry and attempted to incite a "chain-reaction" servile insurrection. The United States Marines quickly captured the fanatic and his little band of twenty-two Northern henchmen. Ironically a free Negro was the first fatal casualty of this skirmish. Amidst national tumult, Brown, on legal conviction, suffered death by hanging December, 1859.¹⁷ Southerners, worried over possible insurrections, indignantly stormed at this invasion by Northern abolitionists, bent on inciting slaves to revolt and murder. Insurrections and rumors of slave revolt considerably livened Southern talk.

Before the war, court decisions regarding slavery were of utmost importance to the sections, especially Federal Supreme Court decisions. The famous Dred Scott Decision of Chief-Justice Roger B. Taney, March 6, 1857, in effect annulled the Missouri Compromise. The justice vouchsafed that neither Congress nor local legislatures had any authority to restrict the spread of slavery. At the time it was thought this vital decision had settled once and for all the right of slavery to exist anywhere in the United States. In essence, Dred Scott, not recognized as a citizen could not sue for freedom in a court

17. Commager, Documents, 361-62.

of the United States.¹⁸

The Supreme Court of Wisconsin in the famous Booth Case, virtually nullified the Fugitive Slave Law of 1850. United States marshal Ableman held Sherman M. Booth, abolitionist, for inciting a crowd to free the runaway slave Joshua Glover and thus violate the Fugitive Slave Law of September 18, 1850. The Supreme Court of Wisconsin discharged Booth on a writ of habeas corpus. Tried again before a United States District Court, Booth received a sentence of imprisonment and a fine. In turn, the supreme court of Wisconsin ordered the release of Booth on the ground that the Fugitive Slave Law was unconstitutional. In 1859 Chief Justice Roger B. Taney of the Supreme Court announced that a state court had no power to annul or reverse Federal legislation and that it was the duty of United States Commissioners to arrest fugitive slaves.¹⁹

With pre-war Federal legislation and judicial interpretations favorable to their slavery system, southerners were doubly fortunate to command the good-will and aid of the nation's executives. Fillmore, Pierce, and Buchanan

18. Commager, Documents, "Dred Scott v. Sanford", 339-45.

19. Ibid., 358-361; M.S.S., Frederick Merk, "Rescue of a Fugitive Slave in Wisconsin," Wisconsin Historical Society, (Madison, n.d.)

were "doughface" presidents, sympathetic to the South and the slavery system. The South, possessing native sons of unusual political ability, grasped the federal government and held it tightly, from the administration of Andrew Jackson until the election of Abraham Lincoln in 1860. All presidents were southerners or southern sympathizers. Southerners also controlled Congress and the Supreme Court until secession.

During the war the survival of the Confederacy greatly depended on the South's ability to utilize and control her huge slave population. Thus, the failure of the Confederacy to preserve her economic and social slave structure was an important factor in eventual defeat. With many of the white masters at war, it was imperative that the Confederate Legislature pass police laws to prevent insurrection, curb migratory tendencies of the slaves, and to preserve the social status quo. A clause of the Confederate Constitution refused to recognize an escaped slave as free and maintained that the fugitive must be "delivered up on claim of the party to whom the slave belongs; or to whom such service or labor may be due."²⁰

20. "Constitution for the Provisional Government of the Confederate States of America Article IV, Section 2, 3, in James A. Matthews (ed.), Statutes at Large of the Confederate States of America, 2 vols. (Richmond 1862-1864), First Congress, Session 1, 1862, 20.

In the first conscription act of 1862, Congress exempted one overseer from military service for every twenty slaves.²¹ The "fifteen Nigger Law" replaced the older form in 1864.²²

Individual states passed legislation establishing patrols and home guard units to prevent uprising and flight. Confederate Army units frequently investigated uprising rumors, chased fugitive slaves, and suppressed local insurrections.²³ In addition to keeping slaves subjugated, the Confederacy early considered measures to wring slave labor dry to support the war effort. This involved shifting slaves from plantation to Army work on fortifications and roads.

The idea of inducting Negroes into the Army permeated most Southern minds slowly. By law of April 15, 1862, Negro musicians received pay for entertainment service in a Confederate Army Company or regiment.²⁴ Shortly afterwards, April 21, each company could enlist additional Negroes as cooks.²⁵ October 13, 1862, Southern Congress

21. William B. Hesseltine, The South in American History, (New York, 1943), 455.

22. Ibid., 455.

23. War of the Rebellion; Official Records of the Union and Confederate Armies (Washington, 1880-1901) Series 1, 2: 820. Hereafter designated, O.R., Series.

24. Statutes at large of Confed. States, 29.

25. Ibid., 48-49.

passed "an Act to protect the rights of owners of slaves taken by or employed in the army."²⁶ March 26, 1863, "an Act to Regulate Impressments" of slaves passed the Confederate Legislature.²⁷ This act defined the condition under which slave labor could be used. "An Act to amend An Act to regulate impressments" passed February 16, 1864.²⁸

A Negro Bureau of Conscription, consisting of three men, supervised induction of drafted Negroes. February 17, 1864, "An Act to increase the efficiency of the army by the employment of free negroes and slaves in certain capacities" passed.²⁹ This bill provided for labor of free Negroes and slaves on fortifications, in war factories, hospital, or on any other non-combat work assigned by the Secretary of War. Also under this act Congress authorized the Secretary of War to impress twenty thousand slaves if unable to fill his quota by volunteering. In all cases, Congress asserted slaves should be volunteered if possible; if not, then the executive could draft them. In every case legislation protected the rights of the owners.

26. Statutes at large of Confederate States, 2 Sess., 89-90.

27. Ibid., 3 Sess., 102-104.

28. Ibid., 4 Sess., 192-3.

29. Ibid., 235-6.

In a last desperate effort, March 13, 1865, Congress gave President Jefferson Davis the right to use able-bodied slaves in the Army in any manner he saw fit.³⁰ This law embodied the right to organize, equip, and use slaves for combat in defense of the Confederacy. Davis did not want to arm the slaves "but should the alternative ever be presented of subjugation or of the employment of the slave as a soldier, there seems no reason to doubt what should be our decision."³¹

The Confederate Army used slaves for camp duties and labor battalions before the Union Army gained access to this labor potential. The Confederate Army also armed Negroes before its opponent but unfortunately Southerners did not follow up this initial advantage. Had the Confederate Army used colored troops early in the war, defeat might have been postponed; but, fear of arming slaves with deadly weapons caused the Confederacy to organize slaves for combat only as a last ditch-stand. In the early years of the war, many Southerners took their favorite body servants to war with them. Many non-

30. Davis could call on individual states for a quota of 300,000 slaves from each state plus any still owed from previous draft calls. Not over 25% were to be taken from any one state. States also prescribed the length of time slaves could serve. (O.R., Series IV, 3:748.)

31. O.R., Series IV, 3:799.

enlisted slaves served as camp servants, cooks, mule-tenders, diggers of trenches, and erectors of barricades. A few slaves served with the Navy.³²

February, 1862, fugitive slaves reported to Unionists that the Confederates had seized all the Negroes of surrounding plantations to barricade and defend Richmond.³³ Negro "Native Guards" ostensibly joined Confederate forces in defense of New Orleans but later cooperated with Union General Benjamin Butler after white Confederate soldiers retreated from the city.³⁴ Several companies of Negro volunteers reportedly passed through Augusta, Georgia, two weeks after the opening of the war, ostensibly to fight in Virginia.³⁵

The slaves of the Confederate camps greatly feared Yankee troops. They believed tales of Yankees cutting Negro heel cords and selling captured slaves to Cuba.³⁶ They were loyal and attentive to their masters in camp.³⁷

32. Carmody, Negro in Virginia., 192. March 8, 1862 the Confederate marauder "Merrimac" had a few slaves aboard when it preyed on Northern shipping.

33. Ibid., 193.

34. Charles H. Wesley, "The Employment of Negroes as Soldiers in the Confederate Army" in Journal of Negro History, 4:243.

35. Ibid., 245.

36. Ross, Visit to Cities and Camps, 89.

37. Ibid., 92.

Fear of arming slaves with deadly weapons caused the Confederacy to organize slaves for combat only as a last ditch-stand. The slave states, too, passed legislation for defense and Negro control.

State legislation designed to prevent insurrection and escape of the Negro chiefly concerned slave control and regimentation. Most state laws were strikingly similar in basic features. The states all organized militias and district courts for defense and passed local statutes peculiar to each area. Georgia wrote a law forcing all white men between the ages of 18 to 60, "liable to do and perform patrol duty."³⁸ The state also revised the Penal Code in 1863 to control slaves.³⁹ South Carolina, 1861, passed a law "to provide more efficient police regulations for the districts of the sea-board" and many other laws to control and work Negroes, both slave and free, throughout the war.⁴⁰

North Carolina enacted a law whereby "three justices of the peace, if they deem it necessary, shall have the power to assemble at any time and any place within their

38. Acts of the General Assembly of the State of Georgia, 1862, (Milledgeville, 1863), 45.

39. Ibid., 1862-1863-1864, 61-64.

40. Acts of the General Assembly of the State of South Carolina, 1861, 16; 1863, 173; 1864, 19-22 (Columbia, 1866).

district when a patrol is needed, and then and there appoint and employ such a number of persons as they may think necessary to patrol said district."⁴¹ The Governor of North Carolina, May, 1861, received "carte-blanche" authority to raise, equip, and employ a State militia in any fashion for the defense.⁴²

Mississippi directed in 1861 "that no master or employer of any slave or slaves shall keep or suffer any such slave or slaves to be quartered, or to reside at any distance greater than one mile from the residence of the master or employer, without an overseer...of such slaves"⁴³

Louisiana passed an act in 1862 "to authorize the Governor of the State of Louisiana to press into the service of the State, Slaves and other property, for the public defense of the State during the present war."⁴⁴ Virginia organized a home guard by the Act of May 14, 1862. Virginia also passed an Act forbidding "tampering with slaves, inciting them to rebel or make insurrection;

41. Public Laws of the State of North Carolina, First Extra Session of 1861, (Raleigh, 1865), 103-104.

42. Ibid., 87-90.

43. Laws of the State of Mississippi, 1861-2, 82. Penalty: Not less than \$200 or more than \$1000.

44. Acts passed by the Twenty-seventh Legislature of the State of Louisiana, Dec. 1862-Jan. 1863, (Natchitoches, 1864), 10.

or to escape from their owners."⁴⁵ Tennessee, under control of Unionists, passed few legislative acts. The border states passed a great number of anti-escape laws during the war.⁴⁶

Despite Confederate legislation to control and regiment them, slaves escaped to Union lines by the hundreds of thousands. Union victories and troop maneuvers, absence of white masters from the plantations, wartime turmoil and confusion, all, gave the Negroes a splendid opportunity to escape. In general, it was the plantation field hands who first wandered off or bolted to the Union lines. This menial labor force lacked the close loyalties of master and slave that existed among house servants or the slaves of smaller farms. Many city slaves proved loyal; some serving in the homeguard.⁴⁷ The boldest male slaves were the first to flee; the timid, sick and senile, women and children hesitated or remained until their masters deserted them. Confederate patrols and homeguard units posed some restraint but they were much less effective than pre-war paterollers.

As the campaigns wore on, more and more Negroes

45. Acts of the General Assembly of the State of Virginia, Passed at the Extra Session, 1862, (Richmond, 1865), 8-9.

46. Discussed in Chapter 5.

47. New Orleans possessed a Negro home guard.

found their way to Union camps. Classification became impossible; for, fugitive slaves, free Negroes, refugees, and freedmen, all intermingled and often hampered Union Army activity. Perplexed Union Army officers worried about the hordes of Negroes that threatened to inundate their campaign plans.

As Federal troops penetrated deep into the Confederacy, Union generals divided over disposal measures. Early in the war, with no precedent, military rulings, or legislation to guide them, each General solved his own refugee problem. On August 31, 1861, Major-General Fremont, commanding the Western Department, declared martial law in Missouri and prematurely issued an emancipation proclamation freeing slaves of Confederate Army soldiers.⁴⁸ President Lincoln, perturbed by his general's rash action, ordered Fremont to revoke the freedom proclamation. Fremont resigned. General Halleck relieved Fremont and issued Order Number 3, November, 1861. In this order Halleck expressly forbade fugitive slaves to enter his lines.⁴⁹ General Dix likewise forbade Negroes to circulate

48. Commager, Documents, 397-398; F. Moore, ed., The Rebellion Record, Vol. III, 33.

49. John Eaton and Ethel Osgood Mason, Grant, Lincoln and the Freedmen, Reminiscences of the Civil War with Special Reference to the Work of the Contrabands and Freedmen of the Mississippi Valley (London, 1907), 48.

throughout camp. Other generals permitted Confederate slave owners to enter their lines and search for fugitive slaves.

Conversely, General Grant at Fort Donelson, Tennessee, February 26, 1862, issued an order prohibiting Confederate citizens from passing through his lines to reclaim slaves. Further, Grant declared that all slaves used by the Confederate Army to work on Fort Donelson would henceforth be retained and worked in the Union Quartermaster Department.⁵⁰ Meanwhile, General Butler on the Atlantic Seaboard solved the problem in another manner and in so doing established a precedent.

Virtually swamped with slaves, General Butler wrote Secretary of War Simon Cameron inquiring about the legal status of refugees and fugitives. In essence he inquired, is the slave deserted by his master a fugitive or a free man?⁵¹ Uncertain, Cameron directed Butler to free the slaves of hostile Virginians but to allow no interference with the slaves of peaceful citizens. He further admonished Butler to avoid encouraging slaves to leave their lawful service. In another letter to the general on May

50. Eaton and Mason, Grant, Lincoln and the Freedmen, 48.

51. Private and Official Correspondence of General Benjamin F. Butler During the Period of the Civil War. Five Vols., (n. p., 1917), 201-203.

30, Secretary Cameron instructed Butler to hold the Negroes, give them employment, and keep accurate records so that owners might later be reimbursed for the slave's services. Butler designated the Negroes as "contrabands of war", thereby giving legal grounds for confiscation of slaves.⁵²

Thereafter, Union Generals kept "contrabands" who entered their departments and employed them on menial camp jobs or in quartermaster and engineer corps.⁵³ A few acted as informants, spies, and scouts.⁵⁴ Employment of Negroes relieved white soldiers for combat. The "rebel contraband", so employed, could be sent North whenever troublesome or could be "spiked" (ruined for labor) if there was danger of their recapture.⁵⁵ Best of all as contraband of war the North need not return them or pay for them after the war. When the army needed slave labor and Negro refugees and fugitives were not available, Federal troops scoured the countryside rounding up needed

52. Quarterly Review, 118:116. "The Federal generals finding at that early period some difficulty in appropriating what their own laws held to be private property, invented an escape from this dilemma by declaring the poor Negro "contraband of war."

53. O. R., Series I, 4: 630.

54. Ibid., 4: 715-716.

55. New York Tribune, May 29, 1861

laborers. The Union Navy also worked Negroes on menial tasks.⁵⁶ Eventually, recruited by the North for combat service, the Negroes served well before the end of the war.

The Union Army legitimately reaped the harvest of slave labor, while protecting the rights of loyal masters, and remained out of the internal affairs of state. Escape of slaves was a severe loss to the Confederacy because, "So far from slaves being an element of weakness in a State in a hot climate; we believe they are an element of strength to a warlike people; and that the four millions of slaves at the South, by reason of their peaceful labor for their masters and the cheapness of their support add to the military strength of those States as much as three millions of free persons would in the same climate, without any slaves."⁵⁷

As the war continued, Federal legislation in regard to refugees and fugitive slaves developed to meet emergencies; but, at the beginning of the war the Federal Government, unprepared for the sudden inundation of its

56. April 30, 1862, Secretary of Navy Gideon Welles advised naval officers to enlist contrabands for menial service aboard Union vessels. He claimed the Negroes could adjust to the climate better than white soldiers.

57. Rebellion Pamphlets, Vol. 124, 4.

fighting forces by refugees and fugitive slaves was almost at loss to cope with the situation. The Constitution protected slavery and political expediency dictated slow and careful action. Accordingly, the Federal Government early tried to enforce existing Constitutional rights in the insurrectionary states; for the government at Washington did not recognize the withdrawal of the Confederate States from the Union.

On August 16, Secretary of Interior, Caleb Smith, delivered a speech at Providence, Rhode Island, that summed the early policies of the Federal Government. In essence Secretary Smith stated: that the United States Government had not interfered with State institutions, the central government still recognized the States as sovereign in their proper sphere, and admitted that the Federal Government had no more right to interfere with slavery in South Carolina than in Rhode Island. Thus, early in the war, ordinary legal practices ostensibly covered all claims. In direct combat zones, however, military exigencies replaced the rights of states and citizens and Union generals declared martial law.

Though not deliberately premeditated, Federal plans and legislation, from the first, pointed toward eventual freedom for the slave. An act of August 6, 1861, declared free any slave employed treasonably against the

Federal Government. Further, the new law suspended all fugitive slave laws in the seceded states and opined it best that all fugitive slaves, of both loyal and disloyal masters, be taken into service. However, in the loyal slave states, slavery remained under the control of the civil authorities as Federal leaders quickly learned to direct slavery problems to the States. Union legal and military officers could cope more safely with slave problems in the seceded states.

On March 13, 1862, Congress passed a law forbidding Army officers to return fugitive slaves, except to loyal masters. Dismissal from service was the penalty. July 17, 1862, the so-called Confiscation Act passed during a special session of Congress. Approved August 6 by Lincoln, the new law forbade Union troops from freeing slaves, offered freedom to slaves fighting for the Union, empowered the President to enlist Negroes and crippled the Fugitive Slave Law of 1850.

Meanwhile, Congress contemplated various plans and proposals. Congress studied a Negro colonization proposal and selected Chiriqui, Central America, for settlement. Senator Pomeroy of Kansas, successful organizer of the "Emigrant Aid Expedition" from Massachusetts, headed the colonization scheme. Though elaborately planned

and fathered by President Lincoln, colonization failed.⁵⁸ Another proposal would transfer some of the thousands of Negroes around Fortress Monroe to Massachusetts and other Northern states. Northern Congressmen, however, quickly contended there was an adequate number of white laborers and the Federal Government remained the good samaritan to the many refugees and fugitives.⁵⁹

President Lincoln's early thoughts and actions on the Negro refugee problem seemed as remote and vague as those of his Congress. As time furnished example and precedent, Lincoln became more decisive. Radical pressure from Congressmen formulated some of his decisions.⁶⁰ During the presidential campaign, Lincoln favored slavery and enforcement of the Fugitive Slave Law of 1850. However, he strictly opposed any further extension of slave territory. As President, he editorially expressed his paramount issue to be salvation of the Union, not destruction or preservation of slavery.⁶¹ Nevertheless, abolition of slavery ultimately entered into Union war aims.

58. Quarterly Review 118:116.

59. Secretary of War Edwin Stanton essayed a social experiment on a grand scale with the Negroes amassed around Old Point Comfort.

60. T. Harry Williams, Lincoln and the Radicals, (Madison, 1948).

61. Letter in reply to Horace Greeley's publication, "The Prayer of Twenty Millions," Commager, Documents, 415-418.

In 1861, Lincoln preferred to retain captured slaves, but he repudiated Secretary of War Simon Cameron's plan to arm the slaves for defense of the Union. The President had no desire to foment insurrection in the South. Also, Lincoln dared not openly enforce the "contraband" idea lest he offend the fence-straddling border states.⁶² In 1862, Lincoln approved a bill which abolished slavery in the District of Columbia, prohibited slavery in the territories, and authorized the military governors of Virginia, Louisiana, Texas, and Arkansas to hire Negro laborers.⁶³

Lincoln's early plan involved gradual compensated emancipation and colonization.⁶⁴ This plan later appeared in the preliminary Emancipation Proclamation and promised freedom to Negroes in rebel territory after January 1, 1863. However, no reimbursement or coloniza-

62. Eaton, Grant, Lincoln, and the Freedmen, 50.

63. George Konti Eggleston, The Number of Slaves Freed in the South, Their Disposition by the Federal Forces During the War (Madison, 1922), 19.

64. The colonization scheme was severely criticized. "It (colonization scheme) is a display of ignorance or of humbug or perhaps of both....The President is to be allowed to carry out his hobby. The despots of the Old World will envy Mr. Lincoln. Those despots can no more carry out their hobbies." Adam Gurowski Diary, From March 4, 1861 to Nov. 2, 1862, (Boston, 1862), 252.

tion clauses were in the final draught.⁶⁵ Technically the proclamation had no effect on the military situation. It failed to incite a general slave insurrection and only served to unify the slave states.⁶⁶ It provoked some of the conservatives of the Federal administration. Lincoln thought it was as futile as "the Pope's Bull against a comet" but others persuaded him to issue the proclamation.⁶⁷

For the rest of the war the President was content to enforce existing legislation and oversee the military conduct of the war. The net results in the North of all the paternalistic Federal laws, resolutions, and executive assertions during the war were generally satisfactory to all but the abolitionists.

In conclusion, though the ordinary slave was content to remain on the plantation, before the Civil War, slave flight was common. Slave state legislation was severe; for Southerners could not countenance servile revolt or

65. Commager, Documents, 420-421; U. S. Statutes at Large, Vol. XII, 1268-9.

66. New York Herald, October 4, 1862 quoted from the Richmond Enquirer, October 1, 1862. "Abraham Lincoln's proclamation, ordaining servile insurrection in the Confederate States has not been for a moment misunderstood either North or South."

67. Quarterly Review 118:117; New York Herald, September 26, 1862.

flight. Federal laws closed the legal gaps left by state legislation. Southerners maintained an efficient slave-catching organization, and, consequently apprehended most escaped slaves before they reached the Ohio River. The Fugitive Slave Law of 1850 considerably aggravated hostile feeling between the North and South. Southerners demanded that Northerners live up to the letter of the law and return all escaped slaves. The Underground Railroad developed to aid and abet fugitive slaves; but, Southern legislation increased apace to partly nullify effectiveness of the "road".

Civil war erupted in the United States and the number of fugitive slaves greatly increased. Fugitives, refugees, free Negroes and freedmen were all mixed among the thousands who fled or wandered to Union lines. This inundation caught Union Army officers and the Federal Government unprepared, but gradually a workable plan evolved. The undernourished Confederate slave plan and the benign Yankee Negro policy cost the Confederacy much valuable slave labor and many potential arm-bearers. President Lincoln, at first as vague and uncertain as his Congress, issued the Emancipation Proclamation. The war ground to a close in 1865 and with its sudden end came freedom for all slaves. Among the shambles of post-war reconstruction many jubilant freedmen later paid a high price of freedom.

Chapter V

Fugitive Slaves in the Union

Almost a hundred years before the administration of President Warren G. Harding, the tiny metropolis of Marion, Ohio proved that "normalcy" in that sector was the exception rather than the rule. "Black Bill", alias Mitchell, alias Anderson of Marion set the whole county to talking. Black Bill was a slave, allegedly owned by John Lewis of Kanawha, Virginia, now West Virginia. For years, prior to 1839, Black Bill lived in Marion County. His vocation varied from laborer to barber, butcher and fiddler. He basked in obscurity and friendliness with his neighbors. But one day his peace and contentment was suddenly snatched from him when a posse of eight Virginians appeared and claimed Black Bill as their fugitive slave. On a warrant issued by Justice of the Peace John Batron, the case came up before the Court of Common Pleas, August 26, 1839.¹

Judge Ozias Bowen, Associate Judges Thomas Jefferson Anderson and George Gray presided. Throughout the extraordinary trial the Virginians attempted to intimidate the jury and judges with profanity, braggadocio, and wild

1. Preston, "Fugitive Slave Acts in Ohio", 422-427.

waving of daggers and pistols. Not to be daunted, Judge Bowen ordered the defendant released. The Virginians leaped to their feet, surrounded Black Bill, and with threatening weapons pushed their way to the courtroom door with their captive.

A full-scale riot broke out in the courtroom as friends and sympathizers of Black Bill pounced on the Virginians. Judge Bowen rapped and shouted for order and commanded the sheriff to arrest the disturbers but his voice could not be heard above the din. The leader of the slave-catchers, Robert W. McClanahan, went down under the fury of the mob but rejoined his band after they had succeeded in dragging the Negro into the street. The Virginians then took Black Bill before Justice of the Peace John Batron and demanded an order remanding the Negro into their custody. Meanwhile, the mob grew larger and angrier and surrounded the office of the justice. The Virginians kept them at bay with their pistols and knives. Someone shouted for public arms. The sheriff vainly pleaded for order and dispersal. Suddenly Judge Anderson appeared, edged his way through the crowd, past the Virginians and into the room occupied by frightened Black Bill. Anderson opened the back door and pushed Bill out into the night. The Negro took to his heels. McClanahan quickly recovered and gave chase. Just as he

caught up to Bill, a young Quaker, running alongside, threw the slave-hunter to the ground and pinned him there. Bill sped on.

The frightened Negro spent a terrified night in a cornfield. Quakers Eben Daniel and Griffith Levering found him there, gave him aid and comfort and hustled him off to Oberlin, Ohio. From there, Black Bill joined the thousands of his brethren in the safety of Canada. The court ordered the Virginians indicted for assault and battery and for resisting officers of the court. Adnah Van Bibber and Francis Bowers, of the invaders, received jail sentences; the others were more fortunate. Black Bill never appeared in Marion again, but knowledge of the incident lingered. Both northern and southern newspapers expressed their sectional views over Bill. On the local scene, friendships of long standing broke over the episode. McClanahan, of the slave-catchers, maintained that their mission was of "peaceful and legal intent." Judge Anderson queried, "Was ever a more disgraceful, not to say infamous, scene enacted in Ohio." This symbolic incident took place on the perimeter of the Borderland, the "no-mans land" of the Civil War.

The borderland in the Civil War was the wide belt separating the true North from the true South. It embraced the whole of Kentucky and Missouri, the western

part of Virginia, and the southern segments of Ohio, Indiana, and Illinois.² Maryland and Delaware were distinct from the borderland. These last two states were partially identified with the North in commerce and manufacture. Nevertheless, they were southern because of their slavery system and pro-southern thought. Maryland had more free Negroes than any other state because of voluntary manumission.³ The Ohio River roughly extended the Mason-Dixon Line and divided the borderland. Early settlers within the illusory boundaries of the borderland, with few exceptions, were predominantly southern in origin.⁴ Indiana was even more southern than Ohio and the lower part of Illinois was virtually an appendage of Kentucky. West Virginia split from the parent state of Virginia during the war.

The Borderlanders divided in their views over slavery. People of the borderland were much less attached to slavery than their contemporaries in the South. The old territorial Ordinance of 1778 forbade slavery in the

2. Edward C. Smith, The Borderland in the Civil War, (New York, 1927), 3.

3. Ibid., 5.

4. Exception: Revolutionary soldiers from New England settled Marietta, Ohio.

Northwest. Consequently, the labor system of Ohio, Indiana, and Illinois differed from the slavery system of Kentucky and Missouri.⁵ The slave states of the borderland possessed a paternalistic form of slavery. Farms were smaller and crops more diversified than those of the Lower South. Closer relationship existed between Kentucky and Missouri masters and their several slaves than was possible on the large plantations of the Lower South.

The slave population was smaller in the borderland. In 1860 Missouri had only 115,000 slaves in a total population of 1,200,000. Nearly 80,000 of these slaves worked within twenty miles of the Missouri River separated from the main slave-holding block of states. Kentucky had 250,000 slaves. West Virginia had less slaves than any other slave state, possessing only 18,368 in the fifteen counties that now comprise the state.⁶

Most Borderlanders resented abolitionists, believing they persecuted the South. They did not believe that slavery was immoral, as preached by the abolitionists. Earlier, the border slave states might have adopted gradual emancipation but for abolition agitation after

5. In the free states owners and family, and/or hired hands and apprentices performed the labor.

6. Smith, Borderland, 31.

1850.⁷ Furthermore, most of the fugitive slaves escaping across the Ohio River belonged to owners in the borderland; and northern reluctance to return these runaways heightened bad feelings between the sections.

Between two fires and with national compromise impossible, the borderland suffered pangs of indecision. Peace and union were of utmost importance to the "country between." Federal armed intervention and political strategy was necessary in Kentucky, Maryland, and Missouri. Governor Magoffin seemed ready to deliver Kentucky to the secessionists until Ohio, Indiana, and Illinois sent troops into Kentucky to repel Confederate invasion and restore order. Active agitation for formation of a separate state in Illinois finally ceased. By the middle of June 1861, the states of Ohio, Indiana, and Illinois rallied to the side of the Union. However, within the borderland some people outwardly sided with the Union but secretly opposed the war.

These Peace Democrats, or Copperheads, gradually became openly hostile to the prosecution of the war, both by the state and national governments. The Knights of the Golden Circle became so strong in 1862, they caused panic in the Union Party. Supreme Commander Clement

7. Smith, Borderland, 34.

Vallandigham estimated, in 1864, there were 84,000 members in the organization in Illinois, 50,000 Indiana, and 40,000 Ohio.⁸ Along with these "peace at any price people" the borderland areas had plenty of pro-northern and pro-southern firebrands. With many conflicting and diverse elements in its population, the borderland remained basically pro-Union, though luke-warm on the subject as compared to the rabid belligerent section.

Both belligerents acquired much of the borderland manpower, though much more went "North" than "South". West Virginia furnished 30,000 troops to the Union Army and 7,000 to the Confederates. Missouri supplied 109,000 men to the Union and 30,000 to the Confederacy. Kentucky furnished 75,760 men to the Union plus about 20,000 Negroes, enlisted in Northern regiments.⁹ State legislation or overt action in regard to the fugitive slave problem, often brought disturbance and reaction within the state, as well as from neighboring states. Thus, each state in the borderland had its own problems before and during the Civil War.

Located in the center of the borderland, Ohio was a

8. Smith, Borderland, 327.

9. Ibid, 384.

focal point of controversy over the fugitive slave problem. The state divided between pro-slavery sympathizers in the southern, borderland area and rabid abolitionists and Quakers in the Western Reserve, especially around Oberlin, the northern sector of the state.¹⁰ The Ohio River, north of which was "freedom land" to fugitive slaves, separated free Ohio from slave Kentucky. The secret Underground Railroad operated through and around Cincinnati, hotbed of slavery controversy. Eventually this city developed anti-slavery sentiment, largely as a result of agitation within by Levi Coffin, James G. Birney, Gamaliel Bailey, and Salmon P. Chase. In common with the other free states of the borderland, Ohio professed anti-slavery sentiment but passed statutes to disfranchise black residents and to curb migration of Negroes to the state.

Though the vote was close, the First Ohio State Constitution rejected political rights for Negroes, including the right to vote.¹¹ In effect, the Negro could live in the state, since he was already there, but he possessed no citizenship rights. From the State's beginning until the end of the war, legislation against the

10. Preston, "Fugitive Slave Acts in Ohio," 422.

11. J. Reuben Sheeler, "The Struggle of the Negro in Ohio for Freedom," in Journal of Negro History, 1946, 31:209.

Negro became more constrictatory. The Law of 1804 forbade Negroes from settling in Ohio unless they could show a certificate of freedom. Registration with the County Clerk was mandatory. Appended to the act was a fine of fifty dollars to anyone hindering capture of a fugitive slave and a fine of one thousand dollars for aiding a fugitive slave through the state.¹² The Law of 1807 required a Negro settler to post a five-hundred dollar bond, endorsed by two freeholders. It also raised to one hundred dollars the fine for employing unbonded Negroes.¹³ This law also prohibited Negroes from testifying against whites in court.

January 27, 1823, the Ohio State Legislature passed a resolution permitting the governor to confer with representatives of Kentucky, Indiana, and Illinois regarding fugitive slaves and free Negroes. After sixteen years, such talks finally resulted in a fugitive slave code designed for "all courts and police officers of Ohio, the truculent and swift servitors of the slave power, and to bind with legal chains the hands and hearts of its philanthropic citizens."¹⁴

12. Sheeler, "The Struggle of the Negro in Ohio for Freedom," 210.

13. Preston, "Fugitive Slave Acts in Ohio", 425.

14. Ibid., 427.

Meanwhile, in 1829, a law excluded Negro children from public schools, and Negro confinement in public institutions, asylums, and poorhouses. Another statute prohibited Negro State Militia service. These "Black Laws" existed for over half a century, more drastic amendments being added from time to time. February 26, 1839, Ohio passed a strong fugitive slave act but repealed it January 19, 1843. Thereafter, until 1850, slave-hunters in Ohio captured and returned runaway slaves under the old Federal Fugitive Slave Act of 1793.¹⁵ Many slave states treated their free Negroes better than did the free states of Ohio, Illinois, and Indiana. Negro John Malvin expressed the disillusionment of many of his race when he stated, "I thought upon coming to a free state like Ohio that I would find every door thrown open to receive me, but from the treatment I received from the people generally, I found it little better than Virginia."¹⁶ The state laws of Indiana and Illinois were strikingly similar to those of Ohio, but the laws of the slave states of the borderland resembled those of the Lower South. Just as Ohio represented the free states of the borderland, Kentucky represented the slave states.

15. See Chap. IV for interpretation of the Fugitive Slave Law of 1793.

16. Sheeler, "Struggle of Negro in Ohio," 211-212.

Kentucky early adopted the slave code of Virginia, regarding treatment of runaway slaves, but strengthened it in 1798.¹⁷ Any person suspecting an unemployed Negro of being a fugitive slave could take the suspect before a local justice, procure a certificate, return the fugitive to the owner and claim a reward. If the runaway could not be identified, he was jailed, his description circulated, and if no claimant appeared after one year, the slave could be sold, the money deposited in the County Treasury and kept for a time for the owner. The runaway could be hired out by the sheriff, in the interim, and the wages of the slave used to pay his captor. If the owner appeared, he could claim his slave at once provided he paid expenses over the excess of the fugitive's wages. This basic code remained practically unchanged except for occasional amendments increasing rewards to captors. On March 3, 1860, legislators increased the reward to \$150 for return of a fugitive from another state to any county, and \$20 for a slave caught anywhere in the home county. Fugitive slaves increased with the rise of the anti-slavery movement in the North and the penetration of the State by abolitionists. It led to further tightening of Kentucky's slave apprehension

12. McDougale, Slavery in Kentucky, 50-51.

policy.

Fugitives rarely escaped into a free state without aid. Hence, laws appeared to punish those who aided Negroes to escape. Earlier laws punished those who had helped escaped slaves. Later laws punished those who simply induced slaves to escape. Abolitionists and sympathizers met severe penalties for enticing a slave to leave his master, furnishing a forged certificate of freedom, assisting a slave to escape out of the state, and concealing a runaway slave.¹⁸ Most fugitives had to cross the Ohio River to reach freedom. Therefore, Kentucky authorities reasoned, if they could close off the Ohio River, they could prevent slave escape. A law of 1823 forbade masters of vessels from employing and removing slaves from the state.¹⁹ A law of 1831 forbade any ferryman to transport a slave across the river. No person could loan a boat to a slave. Slaves could legally cross only with written consent of the owner. Every ferry boat owner had to post bond of three thousand dollars to carry out the law and paid two hundred dollars fine for each

18. In 1844, schoolteacher Miss Delia Webster of Vermont suffered two years imprisonment for aiding a slave to escape. Her accomplice, abolitionist Calvin Fairbank, received fifteen years in jail, was pardoned after serving four years, then received another fifteen years for a second offense. He was finally released April 1864. McDougale, Slavery in Kentucky, 54-56.

19. Ibid., 53.

violation. In 1838 a state law prevented any slave from riding mail stages or coaches without his owner's permit. Stage proprietors paid one hundred dollars for each violation.

Ohio earlier cooperated with Kentucky over return of fugitive slaves but later rebelled. In 1839 a delegation of Kentuckians persuaded the Ohio Legislature to pass a law permitting any owner to take a fugitive before a local justice and, after proof of ownership, get a certificate of removal. The law of this period meted out heavy fines to any who interfered with slave recapture and made Ohio a veritable slave hunter's paradise. Ohio changed its views on the fugitive slave cooperation subject suddenly.

In 1848 the Governor of Kentucky requested Governor Bell of Ohio to return fifteen persons who had aided Negroes to escape. In opposition to the Law of 1839 and the Fugitive Slave Law of 1793, the governor refused. He claimed Ohio did not recognize property in man.²⁰ Thereafter, despite the existence of legal machinery, it was almost impossible for Kentuckians to recover slaves in Ohio. A Kentucky law, enacted March 24, 1851, prohibited any manumitted Negro from remaining in the state,

20. McDougale, Slavery in Kentucky, 59-60.

and a law passed March 3, 1860 forbade any free Negro from migrating to the state. Altogether, slave state Kentucky passed in greater abundance laws and amendments regarding escape and flight similar to those of the other slave states, particularly Virginia.

As Kentucky experienced trouble with Ohio, so did the slave state of Missouri quarrel with free Illinois over fugitive slaves. Settlers from Virginia, Kentucky and Tennessee largely settled Missouri and the state's slave code was as rigid as the parental states.²¹ People from the North largely settled Illinois, except the southern sector, and the state was free under the terms of the Northwest Territorial Ordinance. However, the state passed rigid black laws, similar to those of Ohio, to disfranchise and subjugate its Negro inhabitants. Friction soon developed between the states as abolitionists in Illinois enticed Negro slaves to leave their masters. In January 1841, Missouri tried and convicted three abolitionists: George Thompson, James Burr, and Alison Work, even permitting slave testimony to secure conviction. Persons could also be tried and convicted under the Illinois State Law.

21. W. Sherman Savage, "The Contest Over Slavery Between Illinois and Missouri," in Journal of Negro History, 1943, 28: 311.

Richard Eells, abolitionist, citizen of Illinois and native of Connecticut, suffered fine and imprisonment under Judge Stephen A. Douglas of Adams County Circuit Court. He appealed the case to the State Supreme Court, on writ of error; and, by coincidence, Douglas was now on the Supreme Court Bench. The earlier decision remained. Eells then moved his operations to Missouri. In time, Governor Reynolds of the slave state accused Eells of assisting the slaves of Mr. Durkee of Lewis County to escape. Reynolds demanded Governor Ford of Illinois extradite the abolitionist. Ford refused because of flimsy evidence. March 8, 1843 a group of anti-abolitionists assembled at Palmyra, Missouri, crossed the Mississippi River to Quincy, Illinois, and burned the chapel of Mission Institute or Eells College. The Missourians claimed that abolitionists had built the Institute simply to disseminate incendiary doctrines.²²

In the middle states and New England states cases and legislation centered around fugitives fleeing to those states rather than from those states. Even in the areas where abolition fever burned brightly, state legislation subjugated and controlled the Negro. New York early abolished slavery. Then, the state proceeded to make laws

22. Savage, "Contest Between Illinois and Missouri," 325; Missouri Historical Review, Vol. 23, 366.

to control her free Negro population.

On March 29, 1799 Governor John Jay signed a bill gradually suppressing slavery in New York State.²³ Slavery declined steadily and on March 31, 1817 under Governor Daniel B. Tompkins a law passed which declared, "every Negro, mulatto, or mustee within this state born before July 4, 1799, shall, from and after July 4, 1827 be free."²⁴ In 1830 there were 55 slaves in the state; 1840, 4; and 1850, 1. Many slaves escaped through New York to Canada, or into the Indian territory in the early period. May 6, 1840 Governor William Seward signed a bill making a jury trial mandatory for fugitive slave cases. This action virtually nullified the Fugitive Slave Act of 1793; for, it was difficult to find a jury that would return a slave to the South. In the case, Prigg vs. Commonwealth of Pennsylvania, 1842, the United States Supreme Court declared that states could not pass amendatory provisions to Federal legislation, thus effectually killing the New York law.

New York opposed Virginia over fugitive slaves in interstate quarrels similar to the trouble between Ohio and Kentucky. In 1839, Isaac, slave of John G. Colbey

23. Leo H. Hirsh, Jr., "The Negro and New York, 1783-1865," in Journal of Negro History, 1931, 16: 391.

24. Ibid., 394.

of Norfolk, Virginia, appeared in New York City. Virginia Governor Campbell demanded extradition of those who had aided Isaac's escape: Negro sailors Peter Johnson, Edward Smith, and Isaac Gamey. Governor Seward refused. Harsh words resulted and in 1841, when Governor Seward requested extradition of forger Robert F. Curry, Campbell refused. The Virginia Legislature sided with their governor and passed legislation designed to curb commerce with New York. The Virginia law was not to go into effect until May 1, 1842, to give the New York governor time to change his mind and extradite the three Negroes. The rest of the South interested itself in the New York-Virginia dispute and the states of South Carolina and Mississippi passed similar legislation against New York. Finally, William C. Bouck succeeded Seward as governor and extradited the three Negroes. The southern states then repealed their coercive laws.

A fugitive slave's predicament in New York City after 1793 was precarious. Frederick Douglass, born a slave in Talbot County, Maryland, escaped to New York City, September, 1838, when twenty-one years old. Another fugitive slave, "Allender's Jake", warned him that, "New York was full of slaves returning from the watering places North; that the colored people were not to be trusted; that there were hired men of my own color who would betray

me for a few dollars; that there were hired men even on the lookout for fugitives; that I ought not to think of going upon the wharves or any colored boarding house, for such places were closely watched."²⁵

The Fugitive Slave Act of 1850 caused more slaves to be seized and carried back into slavery in the first year than occurred the previous half century.²⁶ Kidnapping increased as heartless whites sold even free Negroes down the river.²⁷ The Underground Railroad expanded greatly to counteract the trend and many northern states passed personal liberty laws to protect their black population.²⁸ Antagonism between the North and South soon flared to a new height. Joshua R. Giddings, Ohioan in the Federal House of Representatives commented bitterly, "If this law continues to be enforced, Civil War is inevitable."²⁹ The Ohio State Journal editorialized,

25. Frederick Douglass, The Life and Times of Frederick Douglass (Hartford, 1884), 252.

26. See Chap. IV for interpretation of Fugitive Slave Law 1850; Preston, Fugitive Slave Acts in Ohio, 432.

27. Kidnapping and sale of free Negroes is discussed in greater length in Chapt. III.

28. Maine, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, Michigan and Wisconsin passed drastic Personal Liberty Laws that, in effect, nullified positive action of the Fugitive Slave Law of 1850. It is significant that Ohio, Indiana, Illinois, New York, Pennsylvania, and New Jersey did not pass equally severe laws.

29. Congressional Globe, 31 Congress, 2 Sess., Append., 740.

"We think there was no public necessity that called for its passage - the laws of 1793 gave all the facilities for the recapture of fugitive slaves that good fellowship required...."³⁰

Judge Benjamin F. Wade spoke at an indignation meeting held in his Ravenna courthouse, "For myself, regardless of fines and imprisonment if called upon, I would grant to a fugitive slave the writ of habeas corpus...." Further he advised the people, "should they imitate the example set by the old fathers in regard to the Stamp act and Tea Party, they would not err much."³¹ The radical Ashtabula Sentinel advised fugitives, "If the slave catcher comes, receive him with powder and ball, with dirk or bowie knife....Do not hesitate. Slay the miscreant. Wait not to determine whether it be Daniel Webster or the editor of the Cleveland Herald, if he comes to reenslave you or your wife or your child, furnish him with a speedy and hospitable grave."³² Well-known philosopher and agnostic Robert G. Ingersoll commented, "The Fugitive Slave Law would have disgraced Hell in its palmyest days."³³

30. Congressional Globe, 31 Congress, 2 Sess., Append. 459; Ohio State Journal, September 30, 1850.

31. Preston, "Fugitive Slave Acts in Ohio," 465-466.

32. Ibid., 463.

33. Ibid., 477.

Enough public antipathy to the act pressured the Ohio Legislature to pass legal obstructions to bar enforcement though these obstructing laws were not as severe as the "personal liberty" laws of the New England states. April 16, 1857 the Ohio Legislature made it unlawful to confine, in any type of jail or lockup, a person simply accused of being a fugitive from justice. Penalty was thirty days in jail and a five hundred dollar fine. The following day an act to outlaw kidnapping passed. Culprits suffered a penalty of three to nine months in jail plus three hundred to five hundred dollars fine for seizing and detaining a fugitive, the charge against the fugitive being false. Three to seven years at hard labor was the punishment of those who removed a person from the state for use as a slave. These laws worked imperfectly in Ohio and the Legislature repealed them March 27, 1858. However, simple use of habeas corpus in state courts effectually hindered operation of the Fugitive Slave Law of 1850 in Ohio.

In 1859, the State Convention of Christian Anti-Slavery Men met at Columbus and resolved, "all who aided execution of the Law were wicked and churches should excommunicate all who engage in this inhumanity."³⁴ Governor Chase of Ohio in a speech at Cleveland advised the

34. Preston, "Fugitive Slave Acts in Ohio," 474.

people to elect a president and congress who would appoint proper judges "which will provide safeguards which the Constitution confessedly designed."³⁵

On the eve of the Civil War, January 29, 1861, a personal liberty bill entitled "Amendment to the act for the Rendition of Fugitives from Service or Labor" appeared in the Federal Congress sponsored by Congressman Corwin of Ohio. This bill tended to safeguard the rights of persons charged with being a fugitive. If the fugitive could pay his master for lost services, he would be given his freedom certificate. In all cases the fugitive would have able counsel. Also the bill covered kidnapping and apprehension of free Negroes.³⁶

The Fugitive Slave Law of 1850 quickly received a test in New York. October 1, 1851, in Syracuse, John McReynolds of Missouri seized a Negro named Jerry and took him before United States Commissioner John F. Sabine. The local church bells pealed and a large mob gathered. The mob rescued Jerry, but the State Militia recaptured him and brought him back to the police office. The same evening the mob stormed the police office and carried off the Negro. No further attempts to enforce the

35. Preston, "Fugitive Slave Acts in Ohio," 474.

36. Ibid., 475.

Federal Act occurred in Central New York.³⁷ Many New York Negroes greatly feared the Fugitive Slave Act of 1850 and fled to Canada after its passage.

As in other free states, New Yorkers often redeemed fugitive slaves by popular subscription. September 26, 1850, representatives of Mary Brown of Baltimore arrested James Hamlet in New York City and carried him back to Baltimore. A week later friends of the unfortunate met in Zion Church and raised eight hundred dollars to buy freedom for the slave.³⁸

New Jersey laws were similar to those of New York. New Jersey early abolished slavery in an act of February 15, 1804, similar to the abolition act of New York.³⁹ Children born to slave mothers were apprenticed to the owners of the mothers until males reached the age of twenty-five and females the age of twenty-one, at which time they became free.

New England abolished slavery before the middle states. "The high water mark of slavery in Connecticut was reached in 1774 and thereafter steadily declined."⁴⁰

37. Hirsh, Jr., "Negro and New York," 407.

38. Ibid., 407.

39. Marion Thompson Wright, "New Jersey Laws and the Negro," in Journal of Negro History, 1943, 28: 176.

40. Notes on Connecticut as a Slave State," in Journal of Negro History, 1917, 2: 79; Springfield Republican, June 28, 1916.

In 1784 a law of abolishment passed which stated, "no Negro or mulatto child born after March 1, 1784, should be held in servitude beyond the age of 25 years."⁴¹ The laws of the other New England states resembled those of Connecticut.

California, largely representative of free states in the far west, earlier divided sharply over the issue of whether to be slave or free.⁴² President Guerro of Mexico abolished slavery in California in 1829, twenty years before the United States acquired the territory. However, a strong influx of southerners with their slaves brought the issue to a head. The State Constitutional Convention finally adopted a "no slavery" clause. In 1852 the state legislature passed a rigid Fugitive Slave Law to bar slavery from the state. Despite long state residency and ownership of property all slaves, who had escaped into or had, with their owners, entered California before statehood, were liable to arrest as fugitives. This law benefitted the pro-slavery element most but finally expired in 1855. In 1856-1857 efforts to change

41. "Notes on Connecticut as a Slave State," in Journal of Negro History, 1917, 2: 80; Springfield Republican, June 28, 1916.

42. Delilah L. Beasley, "Slavery in California," in Journal of Negro History, 1918, 3: 33.

the California Constitution to permit importation of slaves failed.

By the start of the Civil War the states had already crystallized basic fugitive slave legislation. Hence, though amendments were plentiful in the border states during the war, few new laws developed. State legislation resembled legal enactments of neighboring states within the same section. Near the end of the war states quickly revoked existing legislation as it became expedient to do so.

During the war Union legislators repealed the Federal Fugitive Slave Law in 1864, after bitter Senate debate and controversy.⁴³ Otherwise Union authorities directed policy and legislation only toward the whole slavery problem, leaving the lesser fugitive and insurrection problems to the states. The states, already possessing basic laws, needed only to implement them to conform to the new, fast-changing situation. The borderland again was in a peculiar situation.

Kentucky, primarily worried about loss of her servile population through escape and flight, passed many amendments and changes to prevent loss of her slave wealth. In March 1861 Kentucky revised the statute

⁴³. Congressional Globe, 38 Congress, 1 Session, 2926, 2774, 2914.

defining proof of the captured Negro and altered the system of fines paid for capture of runaway slaves.⁴⁴ Another statute amended its basic act by reducing to one month the time an owner could claim his arrested fugitive slave. If not claimed within the new time limit, the sheriff could sell the slave to the highest bidder.⁴⁵ Another act to prevent certain Negroes and mulattos from migrating to or remaining in the state passed March 2, 1863. It declared that the Negroes of Kentucky were not free under the Emancipation Proclamation of 1863, and any Negro in the state claiming freedom should be treated as a fugitive slave. Also, it was unlawful for any Negro from the Lower South, claiming freedom under the Emancipation Proclamation, to migrate to and remain in Kentucky.⁴⁶ January 1864 an act passed to pay seventy-five dollars for the arrest of a slave from another state.⁴⁷ The state desired to

44. Acts of the General Assembly of the State of Kentucky (Frankfort, 1861, 1862, 1863), 33.

45. Ibid., 362-64.

46. Ibid., 366-7.

47. Ibid., 1864, 123.

eliminate the free Negroes but did not go so far as to favor a scheme for general, gradual emancipation of slaves.⁴⁸

Maryland, an eastern slave state with basic fugitive slave laws like Kentucky and Virginia, also actively legislated to prevent slave escape during the war. In December 1861 the Maryland Assembly appointed a committee to urge Union General McClellan to the "adoption of some plan to prevent admission of fugitive slaves within lines of the army."⁴⁹ January 1862 a bill declared that any slave ten miles from home in Worcester County, and in another state without a pass should be considered a runaway.⁵⁰ March 1862 the Legislature reduced the time limit for holding and advertising a fugitive slave from two months to ten days.⁵¹

These flurry of laws in Kentucky and Maryland stemmed from increased slave escapes; for, owners pressured their Legislatures to prevent further loss. Laws of the free

48. The Kentucky Colonization Society desired to eliminate the free Negroes from the state by sending them to Liberia. It took more than thirty years to prove to them the futility of such a plan. McDougle, Slavery in Kentucky, 116.

49. Laws of the State of Maryland, 1861 (Annapolis, 1861), 362.

50. Ibid., 1862, 22.

51. Ibid., 1862, 243.

borderland states, middle-states and New England states indicated chiefly a desire to stop or control Negro migration into those states and to regulate Negroes already living within their borders. In many of the northern free states legislation was conspicuous by partial or total absence. Repeal of the fugitive slave acts came later.

Ohio passed an act to prevent amalgamation of white and colored. No white could marry "any negro, or person having a distinct and visible admixture of African blood."⁵² Penalty was a fine not over one hundred dollars and three months in jail; the minister received the same penalty. Indiana, in 1865, repealed "An Act providing for the colonization of Free Negroes, making appropriations therefor and establishing a colonization agency."⁵³ In 1862 a circuit court of Illinois, sitting in judgment of schoolteacher W. C. Lowry, declared Negroes were not citizens and reaffirmed that the Constitution of the State forbade migration of Negroes to the state to settle; nor could they vote, serve on a jury, or hold pub-

52. Acts of a General Nature and Local Laws and Joint Resolutions Passed by the Fifty-Fourth General Assembly of the State of Ohio, 1861 (Columbis, 1861), 6.

53. Laws of the State of Indiana Passed at the Forty-Third Regular Session of the General Assembly, (Indianapolis, 1865).

lic office. Also in Illinois returning army officers who brought back Negroes faced a bill of indictment.⁵⁴ Later, near the end of the war, Illinois repealed her black laws.

As late as 1862 owners claimed alleged fugitive slaves in New York City, and it was not until the Thirteenth Amendment went into effect in December, 1865, that recapture of slaves in New York became illegal.⁵⁵ New Jersey enacted no laws, regarding fugitive slaves during the war, though a bill to prevent Negro migration into the state passed the Assembly and reached the third reading in the Senate.⁵⁶ No important legislation received passage in New York, New Hampshire, Vermont, Pennsylvania, and Michigan before ratification of the Thirteenth Amendment.

In Massachusetts, Governor Andrew ordered that Negroes, as well as whites, be enrolled for army draft. The Legislature quickly voted approval to President Lincoln's resolution that states desiring to gradually

54. Public Laws of the State of Illinois Passed at the Twenty-Fourth General Assembly (Springfield, 1865), 105.

55. Hirsh, Jr., "Negro and New York," 411.

56. Wright, "New Jersey Laws," 188.

abolish slavery be given pecuniary and moral aid.⁵⁷ The state anticipated the Thirteenth Amendment with a resolution, "Resolved, that the abolition of slavery is essential to the establishment of permanent peace, and that an amendment of the Constitution (Federal) forever prohibiting involuntary servitude within the limits of the United States, except for crime, is of urgent importance."⁵⁸ The state quickly ratified the Thirteenth Amendment.⁵⁹ The Wisconsin Legislature approved an act of repeal June 16, 1862, "being an act entitled of the writ of habeas corpus relative to fugitive slaves is (are) hereby repealed."⁶⁰

Thus, during the Civil War the borderland slave states passed myriad statutes to implement, change and strengthen already existing, basic fugitive slave laws. The borderland free states concerned themselves chiefly with preventing free Negroes and fugitive slaves from settling within their borders; for Negroes invaded the free states in droves, despite social discrimination and serious

57. Acts and Resolves Passed by the General Court of Massachusetts, 1862 (Boston, 1862), 221.

58. Ibid., 1864, 338.

59. Ibid., 1865, 445.

60. General Laws of the Legislature of Wisconsin in the Year 1862 (Madison, 1862), 217.

infringement of their political rights. Later, near the end of the war, some border free states repealed anti-black laws. All eventually ratified the Thirteenth Amendment. The borderland slave states desperately passed laws to curb slave escape to the North. The middle and New England states enacted little or no legislation against fugitive slaves during the war.

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