



Understanding the Fugitive Slave Law

Abolitionists used every means within their power to prevent fugitives from being returned to a slave state. Because the Fugitive Slave Law basically usurped the powers of the states' judicial system, lawyers in free states developed a series of arguments that usually were ineffective, but tended to slow down the process of returning the fugitive to his master and bring publicity to abolitionism.

It's important to note that at any given time, Congressmen from the free states outnumbered those from slave states. Had there been a prevailing anti-slavery attitude among the citizens of free states, the Fugitive Slave Law would never have been passed.

Regarding the Garner Case, efforts by abolitionists to keep them free centered on a previous visit to Cincinnati when their master had brought them into the free state. Lawyers for the Garners argued that because they had once been brought into a free state, they were free. Lawyers for the slave owners said that because the Garners had voluntarily returned to the slave state, they reverted back to their slave status.

I. The Fugitive Slave Law

A. Federal Law - superseded state law

1. allowed an owner to seize fugitive slave and take him back home without a formal hearing
2. an owner could apply for and get a certificate, or a warrant, under the Fugitive Slave Law
 - a. the warrant made it illegal for anyone to try to stop the owner from taking his property back to his slave state, including any court or other officer of the law
 - b. the owner could demand and get assistance from the US Marshal of the district (at the Federal government's expense) to hire officers to insure that the slave was transported safely to the home state
3. Free States asserted that the Fugitive Slave Law was unconstitutional because:
 - a. status: free states had laws that said that if a master brought a slave into a free state, the slave was automatically free because slavery was illegal in that state. However, the Fugitive Slave Law said that the status of a slave relied on the law in the slave state where the slave lived. The laws about the status of slaves in slave states all said that a slave was a slave, no matter where he was or how he got there.
 - b. trial by jury: The Fugitive Slave Law said that all cases about slave ownership had to be heard before Commissioners, not juries, and this was unconstitutional

c. commissioners were not judges: Commissioners were appointed by the US circuit courts. Free states said that it was unconstitutional for these “commissioners” to have the powers of federal judges when they had not been appointed by the President and had not passed the consent of the Senate.

d. states’ right to determine habeas corpus: the U.S. Constitution reflects an intention to protect the individual from search, seizure, imprisonment, and punishment without proper legal cause and due process of law. Free states said that it was their right and obligation to inquire into the lawfulness of imprisoning a slave, even when he was in the custody of United States officers. The United States Supreme Court had said that federal courts were not allowed to release a prisoner of a state except to have that prisoner give testimony in a federal justice proceeding.