

Provisions of Compromise of 1850

1. **California**. Would admit California as free state, with no territorial period.
 - Big win for North.

2. **NM Border**. Would give to New Mexico most of disputed land that Texas claimed.
 - Possible Win for North, depending on what happens with NM.

3. **Texas Debts**. Federal government would adopt and pay off all outstanding debts of Texas Republic.
 - Win for South, as most bondholders are members of southerner elite.

4. **New Mexico and Utah Territories**. Would organize New Mexico and Utah Territories without restrictions on slavery: No Wilmot.
 - Ambiguous. Rejection of Wilmot a clear win for South, as was refusal to admit NM as free state immediately, which was Taylor position. But each side's assessment of this provision depends on various factors:
 - Understood as enacting some form of "popular sovereignty," which is itself a highly ambiguous concept. If territorial government has authority to restrict slavery then South would oppose. If not, then slavery could not be restricted until application for statehood, which would be similar to Calhoun position, which would be what many in South wanted. Compromise was silent on issue.
 - Clay and Webster argue that NM climate would not allow for slave agriculture in any case, so area would

likely stay free. Thus, insisting on Wilmot was unneeded. Many others (both North and South) believed that this was inaccurate: that slavery could be successfully introduced in NM agriculture, mining, ranching, etc., if that were legal.

- Fact that Mexico had banned slavery from Territory further complicated issue. Some argued that Mexican law still governed, but others argued that all territories allowed slavery as a matter of US law unless restricted, regardless of prior foreign law. Unresolved!
- Compromise bill allowed for expedited review of issue by courts, but no case ever brought.

5. **Slavery in District of Columbia.** Compromise (i) prohibits slave trade in DC, but (ii) declares that Congress cannot abolish slavery in the District as long as it is allowed in Maryland, and even then, only with consent of DC population, and (iii) similarly declares that Congress cannot restrict interstate slave trade.

- First provision is obviously win for North, although slave trade can just move across river to Virginia, which it did.
- Second and third provisions are obvious wins for South, although largely symbolic, as later Congress would not be legally bound to honor. They might well have import in influencing judicial decisions on subject.

6. **New Fugitive Slave Law.** Congress enacts new Fugitive Slave Act which is widely seen as draconian. The new law

- (i) Greatly increases penalties for helping fugitive slaves,
- (ii) Creates new and highly intrusive federal procedures for adjudicating cases (that were quite unprecedented in terms of prior federal processes),

- (iii) Requires federal agents to assist in capture and rendition of fugitive slaves, and grants federal marshals the power to compel private citizens to assist them,**
 - (iv) Denies accused fugitives of any due process rights, including any right to jury trial or even to testify;**
 - (v) Rewards special federal commissioners (i.e., special federal administrative judges) double the compensation in cases where accused fugitives are returned than in cases where accused fugitives are released. Differential compensation purportedly justified by added paperwork needed, but widely seen as effort to skew results.**
- Big Win for South.**
 - Many historians look at overall Compromise, apart from this provision, as generally favoring North, given importance of California as new free state (although most supporters of Wilmot would have disagreed).**
 - But they view inclusion of Fugitive Slave Law as a major win for South, although some question why the South cared so much about this issue, given the relatively small number of fugitives in relation to whole slave population. This is especially so, given that the most fervent demands for this law came from Lower South, while most of the relatively small number of fugitive slaves came from the Upper South.**