



**Figure 1**The Hall of Representatives where Lincoln delivered his “House Divided Speech and where his body was laid in state.



**Figure 2** The Old State House where Lincoln laid in State in Springfield

The train reached Springfield on May 3, where Lincoln's body was placed in the Hall of Representatives in the State House. Ironically, it was in this same room that he had given his famous [House Divided Speech](#) just seven years earlier.



*Lincoln's Tomb*

**The next day, the day of President Lincoln's burial, was hot and humid. The coffin was placed on a beautiful hearse sent from St. Louis. Major-General Joseph (Fightin' Joe) Hooker led the procession, which wound its way through the city of Springfield to Oak Ridge Cemetery. Behind the hearse followed Old Bob, the President's horse. Mary Todd Lincoln, the first lady, was too distraught to leave Washington, and was not in attendance.**

**At the grave site the oration was given by Bishop Matthew Simpson, followed by the benediction, which was given by Dr. P. D. Gurley. Inside the tomb, two coffins were visible: the late President and his son, Willie. With the service ended, the tomb was closed, and the nation sadly said good-bye.**



<http://www.angelfire.com/my/abrahamlincoln/Funeral.html>

**LINCOLN WRITES GENERAL GRANT TO SEND  
HIM ON HIS WAY TO FINISH THE GREAT TASK  
BEFORE THEM**

Executive Mansion  
Washington, April 30. 1864  
Lieutenant General Grant

Not expecting to see you again before the Spring campaign opens, I wish to express in this way, my entire satisfaction with what you have done up to this time, so far as I understand it. The particulars of your plans I neither know or seek to know. You are vigilant and self-reliant; and, pleased with this, I wish not to obtrude any constraints or restraints upon you. While I am very anxious that any great disaster, or the capture of our men in great numbers, shall be avoided, I know these points are less likely to escape your attention than they would be mine -- If there is anything wanting which is within my power to give, do not fail to let me know it.

And now with a brave army, and a just cause, may God sustain you.

Yours very truly  
A. Lincoln

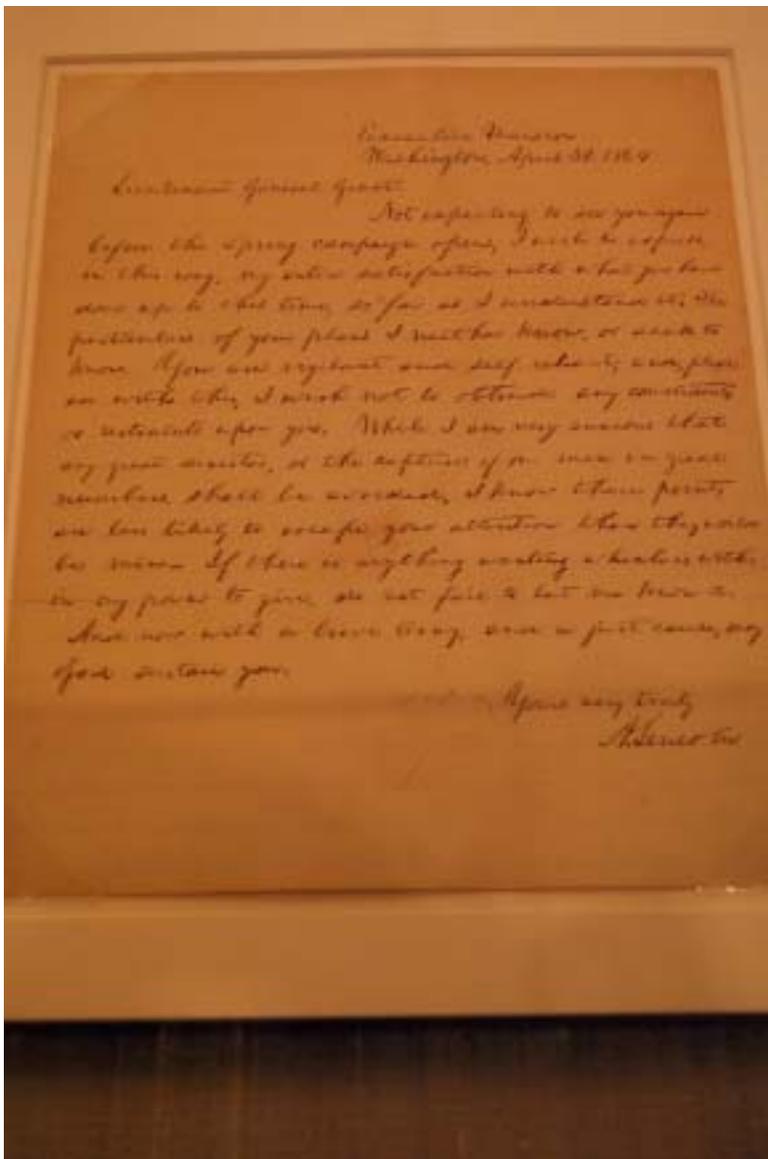
First, let's take a look at Lincoln's handwriting here, because it really captures the story here. You'll note the deliberate, clear hand applied, the even lines, and the sharp margins. This is not the standard in Lincoln's writing; indeed, most items I've seen (and will show you over the next few days) have a much more variegated and rushed appearance. I'm no handwriting expert, but we all know how our writing can vary depending on the context, which begs the question...

On April 30th, 1864, Lincoln, his administration, and the entire Northern war effort were at a momentous point. The long-planned thrusts into the South in both the Eastern and Western theaters, with newly appointed Lt. Gen Grant in overall command but following the Army of the Potomac into Virginia, were about to be launched. It was an election year, and with three years of bloody war gone by with no end in sight, there was real concern that the Lincoln administration and the war effort were nearly spent. Lincoln knew what he had in Grant; indeed had known since 1862 when Grant surged onto the national scene. The two men had met in Washington DC in mid-March 1864, a few weeks before this letter was written, when Grant had been given overall command of the Union Army. Grant had earned Lincoln's respect as well as the clear autonomy spelled out in the letter, but with that came the tremendous expectations that underscore every single word Lincoln wrote.

The timing and expectations that traveled with this letter to Grant's camp were of course not lost on Lincoln. He possessed a keen sense of history and his place in it,

indeed he facilitated this by the use of his personal secretaries, and he knew that this type of letter would become a touchstone for the moment it was written. Bringing these considerations into the fold, we can see a meticulously written note, likely the final of several drafts, with each word selected for the moment and crafted with the very best penmanship. General Grant was about to carry the spear point of the Union army into the heart of the Confederacy, and with this letter, Lincoln not only sent him on his way, but captured the profound anxiety, courage, and diligence that history requires of its touchstone moments.

<http://tipstorian.blogspot.com/>



# ORDERS FROM HEADQUARTERS

## COMPANY B DISPATCHES

Company B has a number of events planned for the month of May:

May 15<sup>th</sup>    **West Salem School Day**                      West Salem, WI

May 16<sup>th</sup>    **Fort McCoy Armed Forces Day**              Ft. McCoy, WI

May 25<sup>th</sup>    **Memorial Day Parade**                              LaCrosse, WI

### A PERSONAL INVITATION TO MEMBERS OF COMPANY B AND MEMBERS OF THE SECOND WISCONSIN REGIMENT

GENTLEMEN:

In 1994, when I returned from the 130<sup>th</sup> Resaca, Ga. event, I received, at home, a packet of letters that were transcribed from originals from some of my civil war ancestors. One of them was a letter from Commanding Officer H. G. Fowler of the 92<sup>nd</sup> Illinois. It stated that William Werkheiser of Company G of that regiment had died October 6, of wounds received (probably at Altoona, Ga., October 5, 1864). A footnote to the letter says, "As far as we know, no one of the family has ever visited William's grave in the Military Cemetery in Marietta, Ga." I had just been within 30 miles of that cemetery!

I intend to personally remedy this issue this year, before I get too old! I am taking the opportunity to do this on the way to the 145<sup>th</sup> Atlanta Reenactment Sept. 4-6 (Labor Day Weekend), since I am unable to attend the Aug. 1-3 event in Gettysburg this year.

I had planned to go alone, but if there is anyone interested in joining me in a car pool, I would like to extend an invitation to all of the Association. I will rent a van if there are more than 4 or 5 that want to go. Please, this is in no way meant to compete against the Battalion Max Effort in Gettysburg, it is simply a personal pilgrimage for anyone interested. I have contacted Dave Shackelford, and he has kindly afforded me a spot in the Cumberland Guard. When I asked if there was a place for us if I showed up with a squad detached from the 2<sup>nd</sup> Wisconsin he said "*absolutely, love to have you and your pards. Its hard to find a nicer bunch of guys. Let me know if I can help with anything.*"

I plan to also stop either at the Chattanooga National Battlefield, or Andersonville along with the stop at Marietta National Cemetery.

I will be leaving early Thursday, Sept. 3, arriving southeast of Nashville for the night. Friday I will visit Chattanooga then Marietta. Then arrive at the 145<sup>th</sup> Atlanta site Friday night, departing Sunday after the battle, staying again southeast of Nashville, arriving in Wisconsin Monday evening.

If there is anyone interested, they can contact me personally. I will be sending in my registration with any others that are interested by the end of April.

Your humble servant,  
Srgt. John S. Didkiewicz

Company B, Second Wisconsin

Postscript: Bob Taunt has located a direct relative in the Marietta Cemetery that we will visit on this trip as well.

**The editor is sure he speaks for all our members in wishing you God's speed and safe passage on this very special trip.**

## COMPANY C DISPATCHES

May 1<sup>st</sup>-3<sup>rd</sup> **145<sup>th</sup> Spotsylvania Reenactment**  
Fredericksburg, VA

May 23<sup>rd</sup> **Memorial Day Parade** Sharpsburg, PA

May 25<sup>th</sup> **Memorial Day Parade** Gettysburg, PA

## COMPANY E DISPATCHES

May 1<sup>st</sup> **Appleton School Day Program** Appleton, WI

May 8<sup>th</sup> **Appleton School Day Program** Appleton, WI

May 15<sup>th</sup> **Merrill School Day Event** Merrill, WI

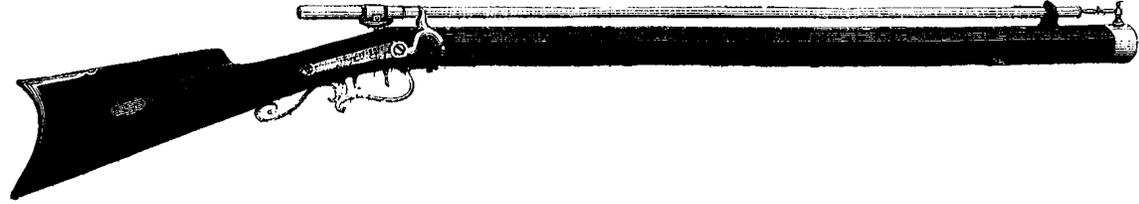
May 22<sup>nd</sup> **Ashwaubenon School Day** Ashwaubenon, WI

May 25<sup>th</sup> **Oshkosh Memorial Day Parade** Oshkosh, WI

May 30-31 **Reclaiming Our Heritage Event** Milwaukee, WI

## COMPANY H DISPATCHES





May 2-3 Skirmish team 66NC

Appleton, WI

The following information was provided by Gary Vankauwenbergh. It is important information for the skirmishers, but the schedule of events for Boscobel also contains information on the activities for non-skirmishing attendees.

1. The Muskets and Memories event in Boscobel has it's own web site, which includes the schedule for the entire weekend at <http://www.musketsandmemories.net/index.html>
2. The American Civil War Shooting Association (ACWSA) has promotional brochures available. **If think you have a good place for some of them, we'd appreciate your help.** Please contact [garyvank@aol.com](mailto:garyvank@aol.com) and he'll get some to you. Living history events, reenactments, local historical societies, gun shows, and sporting goods stores are all prospective locations.
3. The schedule for the Appleton Skirmish is posted at <http://acwsa.org/Appleton.htm>



This is the banner discussed in the article from Rick Raatz  
**DEADLINE DRAWS NEAR!!**

**The deadline for the scholarship program is drawing nigh.  
All applications are due by May 30<sup>th</sup>, 2009.**

**2008-2009  
SCHOLARSHIP APPLICATION  
Second Wisconsin Volunteer Infantry Association Inc.**

*The world... can never forget what they did here”  
A. Lincoln, Nov. 19, 1863, Gettysburg*

The 2nd Wisconsin Volunteer Infantry (WVI) Association began with the purpose of preserving America's Civil War heritage through reenacting and performing "living history". We now also further that purpose by offering a scholarship to family members.

## **Background**

**The 2nd Wisconsin Volunteer Infantry (WVI) Association began with a handful of members in 1960 dedicated to the purpose of preserving American Civil War heritage through reenacting and performing "living history". In 1990, the Unit was reestablished as a result of a general rekindling of interest in the Civil War. Through the use of authentic-styled uniforms and equipment, along with drills, battles, and camp life portrayals, we believe the general public might become more accurately aware and ponder what life might have been like for the average Northern soldier during America's greatest trial. Further, and with great pride, the Unit attempts to depict and honor one of the greatest Union regiments to take to the field, The 2nd Wisconsin Infantry Regiment. With the 6th and 7th Wisconsin, the 19th Indiana, and later the 24th Michigan, they eventually became known as the famous "Iron Brigade" with their infamous "Black Hats". The original men have long since concluded their Rendezvous with Destiny in such places as Bull's Run Creek, Fredericksburg, the "Cornfield" at Antietam and "McPherson Wood" at Gettysburg.**

The Second Wisconsin Volunteer Infantry Association Inc., in recognition of the importance of keeping this history alive in modern times, is proud to offer TWO \$500 college scholarship to relatives of Association members. The Closing date for submission of the application is Wednesday May 30, 2009. If you are the recipient of this scholarship, you will be notified by mail by Saturday June 30, 2009.

## **Eligibility**

All of the following conditions must be met for consideration as a recipient of the 2008-2009 Second Wisconsin Volunteer Infantry Association Inc. Scholarship:

1. You must be enrolled/accepted in an accredited College or University.
2. You must list your intended field of study.
3. You must be a member, or be related to a member in good standing of the Second Wisconsin Association Civil War Reenactors. (Member, Child, Spouse, Grandchild, Niece, Nephew, Sibling)
4. Attach a complete transcript of your grades (including cumulative Grade point average).
5. Attach a listing of your non-academic activities (extra – curricular, volunteer/community work, club memberships with offices held etc.).
6. Attach a separate sheet, containing a short essay (500 words or less) on the following topic. "How do the events or idea of the Civil War continue to affect the United States of today?"

Once awarded, the funds can be used for tuition books and fees at the college or University you are attending. The scholarship check will be made payable to you and your school.

## **Award Criteria**

All applications will be evaluated on meeting the above requirements. The Second Wisconsin Association Scholarship Committee will make the selection of the scholarship winner. All decisions made by this committee are final.

Financial need is not a relevant consideration in this award.

## 2008-2009 Scholarship Application

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

School enrolled/accepted for the 2007-2008

academic year \_\_\_\_\_

Intended field of study

\_\_\_\_\_

Relationship to a Second Wisconsin Association

Member \_\_\_\_\_

\_\_\_\_\_

Please include all of the following when applying:

- o Application Page
- o Copy of your Grade/GPA Transcript
- o List of Volunteer/extra curricular activities
- o Essay (500 words or less).
  - How do the events or idea of the Civil War continue to affect the United States of today?

Mail to:

2<sup>nd</sup> Wisconsin Association 2008-2009 Scholarship Selection Committee  
Attention: Dave Dresang—Association Secretary  
2890 Monroe Rd.  
De Pere, WI 54115

The application deadline to be considered for the 2008/2009 Scholarship is May 30, 2009.



## The Nation Mourns.



From all churches  
Sad and slow,  
Toll the bells  
The knell of woe.

Hark! their sad and solemn notes attend  
Abraham Lincoln to his last way's end.

Dead silence mutely hovers  
Above grave's dreary strand,  
With sable pall it covers  
The Leader of Our Land.

Despairing men are wringing  
In vain their hands here wound,  
The Orphan's wail is winning  
No solace from its ground.

The nightingales' caroling  
Sounds never in its womb;  
True Patriots tears are rolling  
But on the mossy tomb.

*Published by Char. Magone, 12 Broadway, N.Y.*

# THE OUTBREAK OF REBELLION

## CHAPTER FOUR

By the editor, James Dumke

It has already been noted that in southern Wisconsin there was a strong anti-slavery attitude among the citizens. In 1850, the compromise that was fashioned to appease the South and cool the spirit of disunion was greeted with less than enthusiastic hope. In particular, the Fugitive Slave Law rankled the Northern population. In the best tradition of Henry David Thoreau men of conscience took to heart the elements of civil disobedience and openly resisted the efforts to enforce the elements of the Fugitive Slave Act.

Thoreau wrote his essay *Civil Disobedience* in 1849 in opposition to paying taxes imposed to pay for the Mexican War. It would turn out to be a very influential tract among Americans, and it would serve as the basis for outright opposition to the enforcement of the Fugitive Slave Act in the early 1850s! Thoreau argued for "passive resistance" to unjust laws, but in 1859 he would contribute monies to fund John Brown's ill fated attempt to free the slaves in Virginia and the South. While scholars may argue whether this support for John Brown signaled a change in Thoreau's belief in a reliance on passive resistance only to what one perceived as an unjust law, that is a topic for another occasion. Another very influential author, and contemporary of Thoreau, Ralph Waldo Emerson formulated the proposition to Northerners in the following fashion: "Ask not, Is it Constitutional? Ask, Is It right?"

<http://www.highbeam.com/doc/1P3-38894891.html>) Both Thoreau and Emerson argued that there was a higher duty than following the dictates of the law!\* Today there is little question that the Federal courts are the bastion of protection of individual liberties in our nation. That wasn't the case in the late 1850's. As the country moved from one crisis to another over the institution of slavery, and the resulting civil war, citizens questioned who should be the final arbiter over their individual rights. The question was who was more likely to form a bulwark of freedom for the citizens, the Federal government, state governments, or

ultimately the people themselves. Thoreau clearly suggests that the citizens themselves have a right to determine what laws should have the moral force to be legitimate. And that seems to be the approach taken in the following crisis in Wisconsin in 1854!

Below you will observe a poster that appeared on the streets of Boston when they became aware of slavecatchers in their midst. That same attitude and resentment for those masters coming North to recapture runaway slaves who were merely seeking freedom from the bonds of involuntary servitude—another way of saying slavery—would be the foundation for the events surrounding the rescue of the runaway slave, Joshua Glover, and the creation of a constitutional crisis between Wisconsin and the Federal government.

**CAUTION!!**  
**COLORED PEOPLE**  
**OF BOSTON, ONE & ALL,**  
You are hereby respectfully CAUTIONED and advised, to avoid conversing with the  
**Watchmen and Police Officers**  
**of Boston,**  
For since the recent **ORDER OF THE MAYOR & ALDERMEN,** they are empowered to act as  
**KIDNAPPERS**  
**AND**  
**Slave Catchers,**  
And they have already been actually employed in **KIDNAPPING, CATCHING, AND KEEPING SLAVES.** Therefore, if you value your **LIBERTY,** and the **Welfare of the Fugitives among you,** shun them in every possible manner, as so many **HOUNDS** on the track of the most unfortunate of your race.  
**Keep a Sharp Look Out for**  
**KIDNAPPERS, and have**  
**TOP EYE open.**  
**APRIL 24, 1851.**

Many readers of *The Fugelman* are probably familiar with the story of the incident involving the runaway slave Anthony Burns in Boston. It is one illustration of opposition to the Fugitive Slave Law that is usually mentioned in books and articles concerning discussions on the impact of the Fugitive Slave Law and the building tensions between the North and the South. The incident occurred in Boston, Massachusetts.

Wisconsin had a similar incident that doesn't get near the notoriety, but had more far reaching consequences than

the incident in Boston for the citizens in Wisconsin. As the incident unfolded and created a flurry of litigation it would stimulate abolitionist feeling throughout the North. Another aspect to this case was the struggle to determine who should be the final arbiter of the rights of American citizens.



**Figure 3 JOSHUA GLOVER, THE RUNAWAY SLAVE**

The basic story that commenced the legal battle over the Fugitive Slave Law in Wisconsin was unusual, given the timing of the incident. On March 10<sup>th</sup>, 1854, the owner of a runaway slave named Benjamin Garland, located his "property", Joshua Glover, in Racine, Wisconsin, where Glover had found work in a sawmill. Garland, with the help of a couple of U. S. marshals and four slave catchers, went to a cabin on the outskirts of Racine where Glover was seized. \*\* Glover was forcibly taken to a jail in Milwaukee.

Back in Racine, at the time known as a "bastion of abolitionism", the news of the seizure of Glover began to circulate among the citizenry. A huge crowd began to assemble and they were addressed by speakers whose inflammatory remarks moved the crowd to go to Milwaukee to demand the release of the fugitive slave. At the same time the leaders of the effort to get Glover released had obtained a writ of habeas corpus from a local county judge.

Once the crowd arrived in Milwaukee, the writ was served on the local sheriff holding Glover and his release demanded. The sheriff refused to honor the writ of habeas corpus and release Glover from custody. Another large crowd began to gather near the jail where Glover was being held. This crowd was composed of German immigrants, Irish workers and reflected all social classes in the City. The crowd grew to 5,000 men. One of the vocal leaders of the crowd was a newspaper editor named Sherman Booth. Booth was the publisher of the newspaper called the American Freeman. Booth gave an impassioned speech urging the crowd

to rescue Glover from the sheriff's custody. The crowd smashed down the door to the jail, took Glover from the cell where he was being held, and hustled him north to Canada and freedom!

As unusual as this event may have been, the circumstances following the event were even more astounding. At this point it is important to note a fact that can be overshadowed by the more dramatic events involved in the rescue of Joshua Glover. One of the first actions of the leaders of the crowd in Racine was to seek and encourage a legal solution to the incident.

Word spread of Joshua's capture and it wasn't long before Sherman M. Booth, editor of the abolitionist newspaper, the American Freeman, went into action. He organized a public meeting for that afternoon. Booth urged everyone to stay within the law, but an angry crowd left the meeting and stormed the jail where Joshua was held. Using pickaxes, Joshua was soon freed and rushed back to Racine and then on to a boat to Canada. (*Wisconsin State Historical Society*)

This spurred the effort to obtain a writ of habeas corpus by the leaders of the crowd.

The application for the writ alleged, among other complaints, violations of the United States Constitution stating that the Fugitive Slave Law violated Glover's rights in that it denied him a right to a jury trial, the law as written denied Glover the ability to seek a writ of habeas corpus challenging his seizure by authorities, and the procedure of using court commissioners under the Fugitive Slave Law had no basis under the constitutional authority of the Federal government and was therefore unconstitutional. The county judge who heard the matter agreed and issued the writ. It was the refusal of the sheriff to honor the court order to release Glover that provoked the crowd to take the law into their own hands and forcibly remove Glover from the jail!

In the months and years ahead there would be a momentous battle in the courts over the issue of the judicial authority of the state courts in relation to the Federal courts. The initial round of legal battles was initiated when, pursuant to a warrant issued by the U. S.

District Court of Wisconsin for the arrest of Sherman Booth for aiding and abetting the escape of Joshua Glover. Booth was arrested and held in custody of the U. S. marshal, Stephen V. R. Abelman. Booth's lawyers immediately sought a writ of habeas corpus in the state court which was issued by Justice Smith of the Wisconsin Supreme Court. Judge A. D. Smith ruled that Booth's detention in the custody of the U. S. marshal was illegal since the Fugitive Slave Law was unconstitutional. The marshal, Abelman, appealed the decision by Judge Smith to the Wisconsin Supreme Court.

In an astounding turn of events the Wisconsin Supreme Court agreed with Justice Smith's decision and held the Fugitive Slave Law unconstitutional!! The case would begin winding its way to the U. S. Supreme Court. There was also a case challenging the indictment in the federal district court for aiding and abetting the escape of the runaway slave being appealed by Booth, who acted as his own lawyer in the case. The U. S. Supreme Court would agree to hear both cases together in 1856. This article, however, isn't concerned with the issues raised over the indictment of Booth.

The Chief Justice of the United States Supreme Court, Roger Brooke Taney, was a pro-Southern slave holding individual from Maryland. Six of the nine Justices were Southerners. This was the same court that would in the following year hand down the unfortunate decision in the Dred Scott case. \*\*\* Chief Justice Taney would write the opinions in both the Booth case and the Dred Scott case. The ultimate issue to be addressed by the Court in the case of Abelman v. Booth was whether the decision by the Wisconsin Supreme Court took precedence over the federal laws adopted by Congress—the Fugitive Slave Law in particular.

Taney ordered the Wisconsin Supreme Court to send the record from the case involving Booth, which it refused to do despite the order. The Booth case languished in the U. S. Supreme Court from 1855 until 1856 due to the fact that the record from the state case had not been forwarded. Finally, Chief Justice Taney determined to press on with the case without the record from the Wisconsin Supreme Court. Taney, who wrote the opinion in the Booth case, did not base his decision on the question of slavery: but

on the question of the power of a state court to override a federal statute or court decision.

The judges of the Supreme Court of Wisconsin do not distinctly state from what source they suppose they have derived this judicial power. There can be no such thing as judicial authority unless it is conferred by a Government or sovereignty, and if the judges and courts of Wisconsin possess the jurisdiction they claim, they must derive it either from the United States or the State. It certainly has not been conferred on them by the United States, and it is equally clear it was not in the power of the State to confer it, even if it had attempted to do so, for no State can authorize one of its judges [62 U. S. 516] or courts to exercise judicial power, by habeas corpus or otherwise, within the jurisdiction of another and independent Government. And although the State of Wisconsin is sovereign within its territorial limits to a certain extent, yet that sovereignty is limited and restricted by the Constitution of the United States. And the powers of the General Government, and of the State, although both exist and are exercised within the same territorial limits, are yet separate and distinct sovereignties, acting separately and independently of each other within their respective spheres. And the sphere of action appropriated to the United States is as far beyond the reach of the judicial process issued by a State judge or a State court, as if the line of division was traced by landmarks and monuments visible to the eye. And the State of Wisconsin had no more power to authorize these proceedings of its judges and courts than it would have had if the prisoner had been confined in Michigan, or in any other State of the Union, for an offence against the laws of the State in which he was imprisoned. Ableman v. Booth, (62 U. S. 506).

It is somewhat ironic that the decision by Taney would assert the supremacy of the Federal government over the power of the state, given the prominence that States' Rights would play in the debate over secession only two short years following this decision! That view makes the following assertion of federal power all the more remarkable!

But, as we have already said, questions of this kind must [p517] always depend upon the Constitution and laws of the United States, and not of a State. The Constitution was not formed merely to guard the States against danger from foreign nations, but mainly to secure union and harmony at home, for if this object could be attained, there would be but little danger from abroad, and, to accomplish this purpose, it was felt by the statesmen who framed the Constitution and by the people who adopted it that it was necessary that many of the rights of sovereignty which the States then possessed should be ceded to the General Government, and that, in the sphere of action assigned to it, it should be supreme, and strong enough to execute its own laws by its own tribunals, without interruption from a State or from State authorities. And it was evident that anything short of this would be inadequate to the main objects for which the Government was established, and that local interests, local passions or prejudices, incited and fostered by individuals for sinister purposes, would lead to acts of aggression and injustice by one State upon the rights of another, which would ultimately terminate in violence and force unless there was a common arbiter between them, armed with power enough to protect and guard the rights of all by appropriate laws to be carried into execution peacefully by its judicial tribunals.  
(Abelman v. Booth)

Although Tawney's opinion avoided the question of the legality of slavery and by corollary the Fugitive Slave Law, in Wisconsin it was viewed as a decision intended to advance the authority of the Federal government to expand slavery and its influence. Wisconsin was not ready or willing to comply with the decision of the U. S. Supreme Court.

Back in Wisconsin, the story of Booth's activities reads like some adventure novel. Three times federal authorities arrested Booth and placed him in custody in Milwaukee. In all three incidents the Wisconsin Supreme Court ordered his release. On the first two occasions the federal marshal complied with the orders. The third time, however, the federal marshal refused to comply with the Court's order. When faced with the refusal to release Booth from custody the third time, citizens determined to execute the order themselves. The following describes what occurred on July 4<sup>th</sup>, 1860:

On August 4 [it was August 1], following, Professor Daniels, Irving Bean, Mr. Morton, Mr. Fredericks [Carter identifies him as G. W. Frederick], Mr. Willits (a guard at the State's Prison) and another guard whose name I have forgotten, and the writer were in front of the custom house at noon to accomplish what I had postponed. Some persons who had been expected were not present.

Precisely at twelve o'clock noon, Irving Bean, who had carried some jelly to Booth, came down and stood on the steps of the custom house. He drew his handkerchief once across his lips to indicate that only one deputy marshal was on guard over the prisoner, his companion having gone to dinner.

Bean passed down as we ran up the stairs. A blank card, like those on which the marshal wrote his passes, was handed the deputy, who dropped the butt of his musket between his feet, as he turned the card over, his wrists were seized and he was pushed back into a corner of the hall. His musket fell upon the floor, and I asked, "Will you be very quiet, or shall we gag you?" He replied: "I am in your power, gentlemen. Do with me as you please."

Morton unlocked the door, with a key made from an impression of the lock taken in softened bread crumbs, and called out: "Come here, Booth. You are wanted." In

turning the deputy around to lead him to the door, I saw that one of our party had a navy revolver cocked in his hand, and begged him to put it up, lest it go off and hurt somebody. It probably influenced the amicable surrender of Deputy Burke, who was led to the door, pushed through it and locked in. He opened the window, walked on the coping at the risk of his life to another window and gave the alarm. Booth came out, wearing the fur cap he had worn when confined the winter before, and carrying a huge bouquet.

The post office was in the custom house and the postmaster (I think his name was Stover), had a lot of loaded muskets on the first floor with which it was intended to arm employees deputized as marshals to guard the prisoner. He ran to the door, calling out: "What's all this! What's all this!" I slid down the hand rail ahead of our party, laid my hand on his shoulder, said "It's alright. It's alright." but was ready to throw him down the steps if he gave any orders.

In five minutes we were on the street with 500 excited people around us, going to the house of Booth's brother-in-law, named Saulsman [sic]. After a hasty dinner it was decided that Booth with the two prison guards and myself, should drive to a railway station, two or three miles distant, and take the car to Waupun or Ripon. We passed out of Saulsman's house, through a back yard to the stable, while the United States marshal, John H. Lewis, attempted to summon the posse comitatus from the crowd in front of the house, to re-arrest the prisoner. Professor Daniels stood on the porch and argued with the marshal, while the crowd made fun of him, and before we left the stable, word came that the Montgomery guard had been ordered to assist the marshal.

We reached the railway station just before the

train, took the car, and proceeded without question to Horicon.

[http://www.wlhn.org/wisconsinian/dec99/booth\\_war\\_milwaukee.htm](http://www.wlhn.org/wisconsinian/dec99/booth_war_milwaukee.htm)

Booth would finally be arrested and imprisoned. He would serve out his sentence and fine, as he was by now unable to pay the fine imposed by the Federal court, and would be released early in 1861.

One final, and another ironic twist, development arose as a result of the collision of state authority with the Federal government. After the issuance of Tawney's opinion on the Wisconsin legislature passed a bill similar to the Kentucky Resolutions written secretly by Madison and Jefferson for Kentucky and Virginia in 1793. The bill asserted the sovereignty of the state of Wisconsin and directed that state law should take precedence over the Federal laws within the state. This in essence overrode the Tawney Court's decision. Wisconsin even considered the unthinkable, secession, as a result of this crisis. Ultimately the issue went away as a result of the 1860 election of Abraham Lincoln and the outbreak of the civil war.

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\*William Seward would make the same argument in a speech on the floor of the U.S. Senate, although he would use the framework of "a higher law" based on natural law concepts or a moral authority. It is also reflected in the position of Lincoln in his "house divided" speech and his debates with Stephen Douglas in Springfield in 1858. The following are some excerpts from the speech by William H. Seward:

The United States are a political state, or organized society, whose end is government, for the security,

welfare, and happiness of all who live under its protection. The theory I am combating reduces the objects of government to the mere spoils of conquest. Contrary to a theory so debasing, the preamble of the Constitution not only asserts the sovereignty to be, not in the states, but in the people, but also promulgates the objects of the Constitution:

"We, the people of the United States, in order to form a *more perfect union*, establish justice, insure domestic tranquillity, provide for the *common defence*, promote the GENERAL WELFARE, and secure the *blessings of liberty*, do ordain and establish this Constitution."

***But there is a higher law than the Constitution, which regulates our authority over the domain, and devotes it to the same noble purposes. The territory is a part, no inconsiderable part, of the common heritage of mankind, bestowed upon them by the Creator of the universe. We are his stewards, and must so discharge our trust as to secure in the highest attainable degree their happiness. How momentous that trust is, we may learn from the instructions of the founder of modern philosophy:***

Sir, there is no Christian nation, thus free to choose as we are, which would establish slavery. I speak on due consideration because Britain, France, and Mexico, have abolished slavery, and all other European states are preparing to abolish it as speedily as they can. We cannot establish slavery, because there are certain elements of the security, welfare, and greatness of nations, which we all admit, or ought to admit, and recognize as essential; and these are the security of natural rights, the diffusion of knowledge, and the freedom of industry. Slavery is incompatible with all of these; and, just in proportion to the extent that it prevails and controls in any republican state, just to that extent it subverts the principle of democracy, and converts the state into an aristocracy or a despotism. I will not offend sensibilities by drawing my proofs from the slave states existing among ourselves; but I will draw them from the greatest of the European slave states. (Baker)

Seward, like Lincoln, saw the issue of slavery as a moral issue and not a legalistic question. This approach drove the Southern pro-slave element in Congress crazy!

\*\*Glover was found playing cards with a couple of his African-American friends in a cabin just outside the City of Racine.

On March 10, 1854, Glover was playing cards with two African American friends in a cabin on the outskirts of Racine. Garland appeared at the cabin with two U.S. deputy marshals and four other men to capture Glover. Garland and his men injured Glover during a struggle, handcuffed him, and took him to a jail in Milwaukee. At the time, the federal government used state and local jails because it did not have many of its own. (Goode)

\*\*\* **Justices for the Court:** John Archibald Campbell, John Catron, Nathan Clifford, Peter Vivian Daniel, Robert Cooper Grier, John McLean, Samuel Nelson, Roger Brooke Taney, James Moore Wayne. Judge Campbell would have a storied career at the outset of the secession winter by going to Washington with two other commissioners in an attempt to negotiate the surrender of Fort Sumter and turning over all Federal facilities in the seceded states to the Confederacy.

[http://www.wlhn.org/wisconsinian/dec99/booth\\_war\\_milwaukee.htm](http://www.wlhn.org/wisconsinian/dec99/booth_war_milwaukee.htm)

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#### FOOTNOTES

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