

PREFACE

It is doubtful that many in Wisconsin knew of Joshua Glover on March 10, 1854. He had been living and working on the outskirts of Racine, a burgeoning port city, for about two years. Glover was quiet and inconspicuous. Then, on March 10, he was arrested after nightfall as a fugitive slave, the legal property of Benammi Garland of Missouri. The following day, news of his arrest and incarceration in a Milwaukee jail was telegraphed across the state. His calamity became the abolitionist cause in Wisconsin. His rescue at the end of the day on March 11 became the stuff of legend, and these events helped propel the Republican Party into power.

Not everyone celebrated Glover's rescue. It was a black eye for federal officers charged with enforcing the Fugitive Slave Act. Slaveholding states threatened secession if their citizens' slave property was not protected when it fled northward, and many believed that execution of the law was vital to the survival of the Union. News that the first attempt to enforce the act in Wisconsin had prompted several thousand to gather outside the county jail, rescue the fugitive, and spirit him out of the country did little to reassure slaveholders that their northern brethren were upholding the law. Embarrassed, the U.S. district attorney brought charges against the principals involved in the rescue.

For the next six years, the federal government's efforts to punish Glover's rescuers met with the same kind of dogged resistance as had the attempt to return the fugitive Joshua Glover to slavery. The Wisconsin Supreme Court freed the rescuers on a writ of habeas corpus and, in the process, declared the Fugitive Slave Act unconstitutional. Nor did this resistance end in the courts. Antislavery Republicans came to power in Wisconsin and arrayed the powers of the legislature and the executive against the Fugitive Slave Act. This opposition became more stubborn over time, setting Wisconsin in defiance of the federal government through the coming of the Civil War.

This book traces the means by which Wisconsinites resisted the Fugitive Slave Act. It was a resistance imposed in the name of the Constitution

against the settled judgment of the U.S. Supreme Court. To modern eyes, the sight of such resistance to the Court's constitutional pronouncements by a people to whom the rule of law was an oft-intoned mantra may appear a fundamental contradiction. Not so for antebellum Americans. Resistance to the Supreme Court sprang from a constitutional source—namely, the popular belief that the Constitution belonged in the last instance to the people. This was not an age in which the courts had a lock on constitutional interpretation. Judicial officers may have interpreted the Constitution, but so did legislators, governors, and even the people at the polls. The constant struggle to find meaning in the Constitution both fueled support for enforcement of the Fugitive Slave Act (no matter how distasteful those supporters found its content) and animated resistance against it. Here was the thread that bound all Americans into one polity—the notion that, in the last instance, the final arbiter of the Constitution was the people themselves.

This thread tied together not only the supporters and detractors of Glover's rescue but also myriad political issues, constitutional disputes, and cultural divides in Wisconsin society. It began with citizenship, for among its duties are both respect for the ordinary process of law and the defense of fundamental rights. To understand this properly, one must explain how and why these duties and privileges were denied to black Americans. This was not an issue that anyone in the 1850s could ignore. The slavery question hung on nearly every political election. Although Wisconsin's free black population was miniscule and many whites rarely came into contact with blacks, culturally they were bound together by the forms provided in sentimental literature and popular entertainment. Everywhere, the rescue of Joshua Glover was a reference point for Wisconsinites' struggle to fix meaning to these complicated questions about their constitutional order. In short, it was the central event in Wisconsin during the political scuffles and ideological battles that marked the coming of the Civil War.

Understanding the popular origins of constitutionalism and appropriate (and inappropriate) means of constitutional resistance in the 1850s means embracing a host of unsettling issues. Chief among them was the consequence of resistance to the Fugitive Slave Act. It was a contributor to the snapping of the bonds that held the Union together. Constitutional resistance had internal problems as well, problems that its proponents failed

at times to resolve. This means understanding why white Wisconsinites were determined to stand up for the rights of a fugitive slave but unwilling to extend suffrage to their state's free blacks. It means addressing why the principles of popular resistance invoked by Glover's rescuers sowed the seeds of their own destruction. It also means understanding the inconsistencies of abolitionists and, sometimes, their failure to live up to the high standard they set for political and personal action.

There are many to thank for completion of this project. I owe much to Joyce Appleby, my mentor, whose critical eye and firm tone helped to discipline my somewhat eccentric and stubborn mind. DeLloyd J. Guth read and commented upon the entire manuscript, and Kristen Foster provided cogent cultural critiques for me. Important criticisms and suggestions were also provided by Gordon Wood, Larry Kramer, Greg Vanderbilt, Patricia Tilburg, Dan Hamilton, Bryan Camp, Sean Overland, Ted Porter, Joan Waugh, Karen Orren, Richard Drew, Chris Gantner, Eric Altice, Sandy Moats, Arthur Rolston, Gabe Wolfenstein, John Schmidt, and Aaron J. Stockham.

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