H-Net Reviews
in the Humanities & Social Sciences

H. Robert Baker. *The Rescue of Joshua Glover: A Fugitive Slave, the Constitution, and the Coming of the Civil War.* Athens: Ohio University Press, 2006. xiv + 272 pp. $38.95 (cloth), ISBN 978-0-8214-1690-7.

Reviewed by Stan Harrold (Department of Social Sciences, South Carolina State University)
Published on H-SHEAR (September, 2007)

From Slave Escape to Northern Constitutionalism

For most of two decades there has been considerable popular and scholarly interest in slave escape and the underground railroad. Part of this interest has been directed toward incidents in which northern mobs rescued alleged fugitive slaves from state or federal authorities. In 1990 Nat Brandt published a book on a slave rescue that occurred in 1854 near Oberlin, Ohio. In 1991 Thomas P. Slaughter published one on the bloody 1851 confrontation between slaveholders and abolitionists at Christiana, Pennsylvania.[1] Since then several other books have focused on similar antebellum incidents. Some of these books, like Brandt's, are designed for popular audiences and emphasize local drama. Others, like Slaughter's, are more scholarly and use a single event to explore broader issues. Each approach can create difficulties for authors and readers. Books in this genre that concentrate on local events may become mired in stultifying detail. Those that use brief incidents to introduce larger themes may become disjointed.

H. Robert Baker's *The Rescue of Joshua Glover: A Fugitive Slave, the Constitution, and the Coming of the Civil War* is among the second type. It begins with an account of a slave rescue in Wisconsin and proceeds to analyze antebellum constitutionalism in that state and the United States. The book is a worthy effort that deserves to be read by students of the Civil War era and the U.S. Constitution. Baker demonstrates an impressive scholarship, especially in his command of secondary sources. But his approach (and the fact that his real subject is dense and complicated constitutional history) may frustrate many readers. Northern resistance to the fugitive slave laws of 1793 and 1850 took two forms. First, alleged fugitive slaves, their neighbors, and mobs fought against masters, their agents, and U.S. marshals. Second, northern magistrates (sometimes acting under state-level personal liberty laws) employed a variety of legal means to prevent rendition or protect those who rescued fugitive slaves. The Joshua Glover case that Baker describes in his first chapter involved both forms. Glover had escaped from Missouri in 1852. In what appears to have been the first attempt in Wisconsin to enforce the Fugitive Slave Law of 1850, his master apprehended him near Racine in March 1854 and after a violent struggle took him to jail in Milwaukee. The next day, a crowd gathered. Some of its members broke into the jail, released Glover, and helped him get to Canada. Federal indictments against two of the mob leaders followed, and, as Baker carefully documents, their cases (not Glover's) became a significant part of Wisconsin's politics for the rest of the decade. Baker emphasizes that the legal points involved in these cases produced a public and lawyerly debate over the right of U.S. citizens to resist federal law, the meaning of the U.S. Constitution, and the role of citizens as well as courts in interpreting it.

Once Glover got to Canada, his rescuers and other white Wisconsinites lost interest in him. This, for Baker, illustrates a tendency among the state's white residents to ignore the few African Americans who lived among them. To place this prejudice in a broader context, Baker devotes a chapter to antebellum white northern racialism manifested in black-face minstrelsy and *Uncle Tom's Cabin* (1852). He makes the well-established point that, while white northerners could be sympathetic to African Americans, they rarely embraced them as part of their society. What is disconcerting is that Glover and African Americans generally are also largely absent (as protagonists at least) from the rest of Baker's book. This is because he concentrates on constitutional principles as they were argued in court by white lawyers, asserted at white gatherings, and endorsed by white politicians. It may be that Baker includes the chapter on the Glover rescue and the chapter on white racialism to show an underlying black agency and to explain why that agency did not manifest itself in discussions of constitutional issues. Nevertheless neither of these chapters fits in well with the bulk of the book.

Baker locates the constitutional roots of resistance to the Fugitive Slave Law of 1850 in republican principles, popular defense of natural rights, and antebellum views of state sovereignty. He provides an insightful discussion of the long national debate over the constitutionality of fugitive slave laws. He points out that the Constitution's fugitive slave clause and the Fugitive Slave Law of 1793 were compromises that allowed masters to recover slaves from states in which the escapees would otherwise be free under international law. The 1793 law, however, encouraged the kidnapping into slavery of free African Americans. Kidnapping in turn led to legal conflict between the national government and northern states as the states took "seriously their duty to protect their free blacks" (p. 36).

In *Prigg v. Pennsylvania* (1842), U.S. Supreme Court justice Joseph Story decided the issue in favor of the national government, but also relieved northern jurisdictions of responsibility in the recapture of fugitive slaves. As is well known, *Prigg* did not stop either popular or court resistance in the northern states. The Fugitive Slave Law of 1850 aimed to quell resistance by making "rendition entirely a federal matter" (p. 51). It also forbade testimony from those accused of being fugitive slaves and stiffened penalties for those who helped them. Of course the 1850 law produced more resistance. Baker emphasizes that the higher-law morality, which encouraged the increase, gained expression "through constitutional channels" (p. 53).

Prior to the Civil War, Americans widely and doggedly challenged the assumption that the U.S. Supreme Court had final say on constitutional issues. Instead they recognized a shared responsibility among all branches of the federal government, state government, private individuals, and ultimately the people. In Wisconsin during the 1850s, citizens, the state supreme court, the newly organized Republican Party, and the state legislature disputed the role of the U.S. Supreme Court and other federal courts in determining the constitutionality of the Fugitive Slave Law. At the center of debate were John Ryecraft and Sherman Booth, leaders in the Glover rescue who faced criminal charges under that law. Their defenders asserted that in a republic citizens had a duty to defend liberty against unconstitutional and oppressive legislation. When juries found the two men guilty, public debate intensified.

A major part of the debate involved the June 1854 and January 1855 Wisconsin supreme court rulings that the Fugitive Slave Law of 1850 was unconstitutional, based on state sovereignty (as defined by the Virginia and Kentucky Resolutions of 1798) and the power of states to protect their citizens. Following Michael J. McManus, Baker notes the similarity of these Wisconsin court rulings and John C. Calhoun's earlier doctrine of Nullification.[2] He emphasizes that while there were "revolutionary kernels" (p. 131) in the Wisconsin rulings, they were more in accord with antebellum constitutional theory than were Calhoun's pronouncements.

Wisconsin's Republican Party stressed state rights in defending northern citizens against a national government controlled by the Slave Power. Consequently constitutional issues were central to the state's politics during most of the 1850s. They were very important in national politics as well, and in March 1859 the U.S. Supreme Court, led by Chief Justice Roger B. Taney, reversed the Wisconsin court's ruling on the Fugitive Slave Law. On behalf of national sovereignty, Taney asserted the power of the Supreme Court to ensure "uniformity of constitutional law across the states" (p. 154). Noting this nationalist ruling by a proslavery jurist, Baker ends his book with interesting and informative analyses of two apparent ironies. The first is that the white South relied on a constitutionalism similar to that prevalent in antebellum Wisconsin to secede from the Union in 1860-1861. The second is that it seemed to do so again a century later in defense of segregation against the U.S. Supreme Court ruling in *Brown v. Topeka Board of Education.* Readers should appreciate Baker's explanation of how Wisconsin's antislavery state rights differed from secessionist and segregationist state rights. It provides a strong finish to an uneven book.

Notes

[1]. Nat Brandt, *The Town that Started the Civil War* (Syracuse: Syracuse University Press, 1990); and Thomas P. Slaughter, _Bloody Dawn: The Christiana Race Riot and Racial Violence in the Antebellum North (New York: Oxford University Press, 1991).

[2]. Michael J. McManus, *Political Abolitionism in Wisconsin, 1840-1861* (Kent: Kent State University Press, 1998), 136-137.

If there is additional discussion of this review, you may access it through the list discussion logs at:
http://h-net.msu.edu/cgi-bin/logbrowse.pl.

Citation: Stan Harrold. Review of Baker, H. Robert, *The Rescue of Joshua Glover: A Fugitive Slave, the Constitution,*

and the Coming of the Civil War. H-SHEAR, H-Net Reviews. September, 2007.
URL: http://www.h-net.org/reviews/showrev.php?id=13554

Copyright © 2007 by H-Net, all rights reserved. H-Net permits the redistribution and reprinting of this work for nonprofit, educational purposes, with full and accurate attribution to the author, web location, date of publication, originating list, and H-Net: Humanities & Social Sciences Online. For any other proposed use, contact the Reviews editorial staff at hbooks@mail.h-net.msu.edu.