

LETTERS ON THE GLOVER INCIDENT

FOUND AMONG THE PAPERS OF
JUDGE PAINE.

FUGITIVE SLAVE LAW DISCUSSED
BY PHILLIPS AND SUMNER.

Literary Treasures Which Bear Up-
on an Important Epoch of the His-
tory of Wisconsin—Judge Byron
Paine's Position in the Case of
Glover, the Escaped Slave, Com-
mended by Two of America's
Greatest Statesmen.

The sons of the late Judge Byron Paine, in sorting some of his papers recently, made up a small scrap-book of letters he had received from Charles Sumner and Wendell Phillips during the days of anti-slavery agitation and especially at the time the Fugitive Slave law was rousing the Abolitionists to action. The collection is interesting and priceless, and shows the high esteem in which Judge Paine was held by those notable men for his fight for right in the celebrated Booth case.

Sherman M. Booth was one of the original anti-slavery men and came to Wis-

from Milwaukee to Waukesha. Joshua Glover was an alleged fugitive slave who was employed in a mill at Racine in 1854. A slave owner from Missouri visited Racine and had Glover arrested. Although the ex-slave made no resistance he was frightfully bruised and maltreated and brought to Milwaukee in a bleeding condition at the bottom of a wagon. At 9 o'clock that morning Mr. Booth received a telegram from the mayor of Racine saying that the negro had been kidnapped by a deputy marshal and asking him to see if a warrant had been issued for the purpose. Booth found that it had been issued and that Glover was in jail. He set himself at once to see that the negro had a fair trial. He issued small bills relating the facts in the case and rode through the streets urging people to guard the jail so that the negro could not be spirited away without trial. Word came that a big indignation meeting of anti-slavery-ites was being held in Racine and the excitement grew so intense here that a public meeting was held at courthouse square, attended by throngs, where it was stated that the negro would be brought into court at 2 o'clock and delivered over to his alleged owner.

Glover's Liberation Secured.

Writs of habeas corpus were served and then came word that Judge Miller would ignore them, and would have the negro brought into court the following Monday morning. At 5 o'clock 100 delegates from Racine, headed by the sheriff, with warrants for the arrest of the deputy sheriff and the slave owner, on a charge of assault and battery, arrived in the city and marched to the jail. Bells were rung and great crowds assembled.

Although violence was counselled against the crowd made a rush for the jail, liberated Glover and he was driven out of town by John A. Messinger and landed safely at Waukesha, whence in due time he made a roundabout escape to Canada. No end of litigation grew out of this case and the Supreme court had several times to pass on the points raised, resulting in victory for the friends of the writ of habeas corpus and trial by jury and dealing the Fugitive Slave law a body blow. This brief review of the so-called "Booth war" will make the following letters received by Judge Paine from Phillips and Sumner intelligible to the reader not versed in Wisconsin history. They have never before been published. A history of Milwaukee issued over a dozen years ago contained an account of the Booth case at considerable length, mentioning many names during the recital, yet scarcely speaking of Judge Paine's connection with it.

Letters of Wendell Phillips.

That his services in the matter were sufficient to draw forth glowing praise from so notable a man as Wendell Phillips is



Judge Byron Paine.

consin to take charge of The American Freeman newspaper that had been moved

two appended letters will show. It is not the first time a service of world-wide importance has been overlooked at home.

Boston, March 31.—Dear Sir: Mindful of my promise (though very late) I have just forwarded to Dr. Ward of Chicago for you two volumes of Theodore Parker's works, which Mr. Parker is happy to ask your acceptance of.

In the same bundle is one copy of "Parker's Defenses," which he sends to Mr. Booth, and which I beg you to hand him. Mr. Ward will forward this bundle to Milwaukee as soon as he finds a convenient opportunity unless you should before that have a chance to send for the books. I believe I did not get a chance to tell you how much I admired your speech. Some parts of it were Erskinean, and all were both able and strikingly new on an old topic. With sincere regard, Yours truly,

WENDELL PHILLIPS.

Milwaukee, Nov. 24.—Dear Sir: I hoped to have met you last evening to tell you with what unbounded delight I read your argument in Booth case. You know you have many companions in the pathway of that effort. But I think none excel you in the completeness and force with which the points are presented, and some of the views with which you sustain points made by others are strikingly original. I cannot see that you leave anything further to be argued. Your illustration of Western farmers is an eminently happy and felicitous expression. That and the twelve tribes and the jury snatched of Erskine in his Indian, I congratulate you most sincerely and rejoice we have so able an ally in our dread fight. Most truly yours,

WENDELL PHILLIPS.

Endorsed by Charles Sumner.

Mr. Phillips' high estimate of the services of Judge Paine found a counterpart in the opinion formed by Charles Sumner. Quite a correspondence must have been carried on between them, as the following letters from Mr. Sumner indicate:

Washington, 8th Aug., '54.—Byron Paine, Esq.: My Dear Sir: I was about to suggest to you to have the opinions of the court and the arguments of counsel in the Booth case collected and published in a pamphlet when I observed that there was a pamphlet containing the most valuable portions of them. Let me ask you to do me the favor of sending me a copy of the pamphlet to my address in Boston. I congratulate you, my dear sir, upon your magnificent effort, which does honor not only to your state but to your country. The argument will live in the history of this controversy. God grant that Wisconsin may not fail to protect her own right and the rights of her citizens in the emergency now before her. To her feelings, the land, which Massachusetts should have taken. Believe me, my dear sir,

With high esteem,

Faithfully yours,

CHARLES SUMNER.

P. S.—Judge Smith's opinion showed the true metal. That, too, will live. Indeed, you and he have been making history!

Washington, 28th Dec., '55.—My Dear Sir: I have a copy of your admirable argument against the Fugitive bill in a newspaper somewhat the worse for wear. It occurs to me that it has been printed in a pamphlet. If so, and you can spare a copy, pray let me have it. I have not seen Judge Smith's opinions in their final form, as I understood he would prepare them for the Reports. Are they yet ready? I think Wisconsin will not hate a jot of her grand position. She will help make history! Remember me kindly to your faithful father, and believe me, my dear sir,

Sincerely yours,

CHARLES SUMNER.

P. S.—I have a special regret in leaving Wisconsin without seeing more of you.

Washington, 8th Jan., '56.—My Dear Sir: You touch the question to the quick. For a long time I have seen it as you do. If the Supreme court has the power which it claims, then are all the rights of the states subordinated to this central power. I am disposed to believe that the authors of the constitution did not foresee the dilemma presented. If the North were really aroused the question would be settled or avoided, while state rights would be secured. It were well that the self-defensive power of the states should be recognized—like that of Cicero, but that the occasion for its exercise might be avoided. But surely we have as great cause for complaint now as can ever be anticipated. What assumption more intolerable than the Fugitive bill can be hatched? I have read Judge Smith's opinion. He has placed the lovers of constitutional freedom un-

der renewed solicitation. It will give me pleasure always to hear from you and to have your suggestions. Believe me, my dear sir,

With much regard,

Very faithfully yours,

CHARLES SUMNER.

Final Letter of Mr. Sumner.

The last letter received from Sumner before the war was from Rome, whither he had gone after the assault upon him by Brooks in congress. It is as follows:

Rome, May 12, '59.—My Dear Sir: Of late I have received very little political intelligence from home, and in the depression of a protracted disability have hardly missed it, but to-day I have been gladdened and strengthened by the news that the people of Wisconsin have elected you a judge of the Supreme court on the issue distinctly presented, that it is the duty of the state to throw the protection of its process around all within its borders. Better news for freedom never, in the long line of history reached this ancient capital. Wherever I go I feel the new influence, and the venerable monuments about me flash for the moment with the brightness of youth. God bless the people of Wisconsin, who knew their rights, and knowing, dare maintain! God bless the champion they have chosen! God bless the cause! To the people—to the champion and to the cause an American citizen far away in a foreign land sends the best wishes of his heart. In this event I hail the certain beginning of a new order of things in our country. Trial by jury, habeas corpus and other safeguards of the rights of all, struck down by the promiscuous, tyrannical pretensions of slavery under the national constitution—will again become realities. The occupation of the slave-hunter will cease! A happy day it will be for the peace and good name of the republic when this is achieved. Meanwhile Wisconsin has nobly set the example which older states must follow. The end cannot be doubtful. I congratulate you, my dear sir, upon the distinguished position you have been called upon to occupy. But permit me to add that honorable as it is to be a judge, the cause you represent gives you a better glory. Believe me, my dear sir, with much regard, Very faithfully yours,

CHARLES SUMNER.

This was followed by a letter in 1855, the last of the collection, which reads as follows:

Boston, 21 Sept., '55.—My Dear Sir: I have read your speech at your state convention with grateful admiration. It was a well spoken word at the right moment. By that speech our country must be saved. We are all anxious. Worse than any defeat of the war is the fatal policy that has been commenced. But it cannot succeed. The Republic is too strong. It must fail precisely as its prototype policy followed by J. B. in Dec. and Jan. before the war broke out. What an opportunity was lost then! What an opportunity is lost now! Very truly yours,

CHARLES SUMNER.

Extract From Mr. Paine's Argument.

The argument of Byron Paine, Esq., and the opinion of the Hon. A. D. Smith made a pamphlet of thirty-six closely printed pages. Its sale was very large, especially in Boston and New York. A chance quotation from Judge Paine's argument will show the feeling that pervaded it: "In spite of all the care of the founders of our government, to guard us against the exercise of an unwarranted criminal jurisdiction, we have here (in the Fugitive act) a law that brings under its ban all things that are lovely and of good report. A law, that not only in spirit, but by its letter, would seize upon our mothers, who by teaching us from our earliest years to do to others as we would they should do to us, lead us to aid a wandering fugitive to escape from a doom to which no human being would wish to be consigned himself, a law that would punish our wives and children, who by their gentle affection and prattling innocence make the home of a man a place of refuge and delight, amid all the cares and sorrows that may overwhelm him in life. Because the holy feeling created in his heart by the love of his wife and children leads him to try and save a fellow being from being dragged away to a condition where

he has no wife and no children, but where they are torn from him, and sold into eternal separation, as ruthlessly as the butcher tears the young animal from its anxious dam! A law that that would punish our teachers all who instruct and enlarge our minds, and inspire us with the love of knowledge and of truth. Because all this leads us to rescue a brother from the grasp of the oppressor, who would reduce him to a state of bondage, where the whole power of society is brought to bear on him to shut out from his mind every ray of truth and to encase his soul in ignorance and night. Yes, sir! all that can inspire our hearts with a just, a generous, humane or noble feeling, comes under the pains and penalties of this act, because all this aids not only 'indirectly' but 'directly' to use the language of the act itself—in the escape of every fugitive that comes among us."

Tribute to Mr. Paine by Justice Ryan.

Judge Paine died at his home at Madison, Jan. 13, 1871. The Supreme court paid respect to his memory, E. C. Ryan of Milwaukee being among the speakers. Among other things, Mr. Ryan said: "The bar of Milwaukee claims the late Mr. Justice Paine as one of its members. He left us for the bench of this court and had he relinquished that position and returned to the active practice of his profession, we feel honored in believing that it would have been as one of us. . . . When I first met Judge Paine at the bar he was still a very young man; but he had already given unmistakable evidence of the power that was in him. The first opportunity I had of forming an estimate of his high ability was in the famous case under the Fugitive Slave act, in 1854 and 1855. He was employed for the defendant, I for the United States. We both brought to the case, not only ordinary professional zeal, but all the prejudices of all our lives. He was a frank and manly Abolitionist. I was as decidedly what was called pro-slavery. We were both thoroughly in earnest. The case was attended with great popular excitement; it was one of many muttered sounds of troubled elements, foreboding the great storm which has since passed over the country. He died undoubtedly believing that the results had justified his views. I shall probably die believing that they have justified mine. I thought him a fanatic; he undoubtedly thought me one. Possibly we both were. But in all that antagonism and excitement I could not fail to see, I could not fail to do justice to the integrity of his motives, or the ability of his conduct. I then conceived an estimate of the beauty of his character, and of his great professional ability, which has never since changed, and which will probably be among the last and dearest memories of my professional life."