



A Newsletter for the Volunteers of the 1820 Col. Benjamin Stephenson House

# The Volunteer

RoxAnn Reiser, Director

## Freedom's Early Ring: Ending Slavery in the Illinois Country 1787-1818

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*Stephen Middleton  
Research and Narrative*



*There shall be neither slavery nor involuntary servitude in the said territory otherwise than in the punishment of crimes whereof the party shall have been duly convicted: Provided, always, that any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid.*

*Article 6,  
Northwest Ordinance of 1787*

When the Confederation Congress approved the Northwest Ordinance in 1787, it settled the fate of five states that would enter the Union between 1803 and 1848. Illinois was among them, and its pioneer history

is inextricably bound to that of western territory. The Northwest Ordinance profoundly influenced the migration of people, ideas, and culture regarding Illinois.

Article 6 in the Ordinance of 1787 simultaneously banned and enforced slavery, a fact that still intrigues, though baffles, students of American history. It is a lesson in ambiguity. Article 6 strengthened slavery with an immigration law that prevented the Northwest Territory from giving refuge to a slave. It authorized a slaveholder to capture a runaway who made it safely to the Old Northwest. Consequently, the Ordinance of 1787 offered the United States its first free zone, its first restriction on black immigration, and its first national labor law. This anomaly made it possible for slavery to continue in various forms in the Illinois country long after adoption of the Ordinance of 1787.

The Article 6 was destined to cause controversy. Its language was repeated in the constitutions of new states that outlawed slavery. Ohio did so in 1802, Indiana in 1816, and Illinois in 1818. Congress also did so in 1865 when it ratified the Thirteenth Amendment, which finally abolished slavery in the United States.

The problem in the Northwest Territory began in 1783. Colonel Timothy Pickering, of the office of quartermaster general, proposed a plan to organize the western territory. His upbringing in Puritan Massachusetts influenced his outlook on the

*(Continued on page 4)*

## Adopting a Soldier in Afghanistan

Stephenson House is asking for your help in showing our support for a local soldier currently stationed in Afghanistan. Corporal Robert Schmidt is a Marine with the 2d Combat Engineer Battalion Alpha Company and spends the majority of his time in the field. His unit makes it back to base only every other week..

Stephenson House board member and volunteer, Kathy Schmidt, is Robert's grandmother. Since his deployment last November, she has been putting together care packages full of items he or other members of the unit can use in the field. Items needed and appreciated by the soldiers include:

- Socks
- Dried fruit
- Granola bars
- Wet wipes
- Small canned meats (no ham)

Candy  
Cookies

Anyone willing to help with the next care package may drop off donations at Stephenson House during regular operating hours. Keep in mind when purchasing items that the men need to be able to carry whatever they have on their person; they have no means of storing large items.

Letters of support are also appreciated. If you would like to send a letter or postcard to Robert he would love to hear from home.

Corporal Schmidt, Robert S. E.  
2D CEB A Co. DET. A  
Unit 73603  
FPO-AE 09510-3603

# News & Needful Things

## THANK YOU:

- Thank you, Carol Fruit, for the donation of a reference book to the house library.
- Thank you, Elizabeth Bowling, for the donation of several reference books to the house library.
- Thank you, George Edwards, for the donation of one man's shirt to the wardrobe.
- Thank you, Ellen Nordhauser, for sewing the man's apron for the wardrobe.
- Thank you, Dottie Vaughn, for the candles.
- Thank you, Kathy Schmidt, for the donation of several spools of quilting thread.

## WANTED:

- flour (all purpose or whole wheat)
- yeast
- medium-weight linen for ladies' mitts
- seamstresses to sew men's aprons and trousers and ladies' shifts for the wardrobe
- seamstresses to work on summer bed linens and draperies
- monetary donations to buy two period men's coats.
- cutting knives with wooden handles (no serrated edges)
- period silverware for the dining room
- old wool clothing with a 95% or greater wool content for use in a rug-hooking class
- child's and male dress forms (torsos)
- period forks and knives
- tin plates
- straw brooms (historical construction)

## NOTICE:

- Interpretive training booklets are available for volunteers to sign out and study the basic history of the house. The booklets contain the basic house tour and various information from the interpretive tour conducted at the house on a daily basis. Anyone interested in becoming a historical interpreter or in reviewing the tour information may contact RoxAnn to check out a booklet.

## Calendar Activities

During January and February, the house will be closed on weekdays except by appointment. Regular hours of operation will be maintained on weekends (Saturday 10 a.m.-4 p.m., and Sunday 12-4 p.m.).

- Feb 3, 7 p.m., **Book Club** (*The first Wednesday of each even numbered month*) Read and then discuss period relevant books. This month's selection is **Founding Fathers: Uncommon Heroes** by Steven W. Allen and Rosemary Green.
- Feb 11, 9-11 a.m., **Volunteer Training: Demonstrating in the Kitchen** How to give a hands-on presentation to visitors and school students. A basic biscuit recipe will be made along with hand-churned butter. Both demonstrations are easy and fun for visitors to help with during a tour. Bring a note pad and pencil to take notes...or jot down ideas of your own. All interpreters are encouraged to attend (men and women).
- Feb 18, 9-11 a.m., **Volunteer Training: Demonstrating Laundry** The basic skills needed to do laundry in 1822 are the topic of this session. Be prepared to roll up your sleeves and get a little wet. We will discuss ways to engage visitors and students while educating them to the hard work of washing laundry. Set-up of the laundry area for school tours will also be discussed. Please bring a notepad and pencil for taking notes. All interpreters are encouraged to attend (men and women).
- Feb 20 & 21, **The Other Family** Come and see what life was like for the indentured servants at Stephenson House. Experience the chores and activities each servant performed on a daily basis. Listen to the stirring tales of slavery in Illinois...and more.
- Feb 26, 9-11 a.m., **Volunteer Training: Demonstrating Militia** Bob Jurgena, George Edwards and Walt Raisner will present three different ways of conducting a militia demonstration for school students. This session is not intended for men only...women can do participate also. Please bring a notepad and pencil for notes. All interpreters are encourage to attend.



# February 2010



Sun

Mon

Tue

Wed

Thu

Fri

Sat

	1	2	3 Book Club 7 p.m.	4	5	6
7	8	9	10	11 <u>Volunteer Training</u> Demonstrating In the Kitchen 9-11 a.m.	12	13
14 Sewing Circle 1 p.m.	15	16	17	18 <u>Volunteer Training</u> Demonstrating Laundry 9-11a.m.	19	20 The Other Family 10 a.m.-4 p.m.
21 The Other Family 12-4 p.m.	22 Board Meeting 7 p.m.	23	24	25	26 <u>Volunteer Training</u> Demonstrating Militia 9-11a.m.	27
28 Sewing Circle 1 p.m.						

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political and social culture in the western territory. His father, a deacon in the church, was an early opponent of slavery. As Timothy became active in confederation politics, he held strong opinions about slavery and the commercial development of the United States. He believed that slavery would hinder the development of free white communities in the West.

As the self-appointed spokesman for veterans, Pickering urged Congress to organize a military district in the Ohio country as compensation to veterans of the war.

By the time Pickering submitted his proposal to Congress, the states had already begun to cede lands to the United States. (New York did so in 1782; Virginia followed in 1784.) Sensing the urgency to resolve the territorial question, Congress organized a committee on January 7, 1784, "to prepare a plan for the temporary government of the western territory." Committee Chairman Thomas Jefferson must have already had a gradual emancipation bill in mind, because in less than two months the committee proposed, "That after the year 1800 of the Christian era, there shall neither be slavery nor involuntary servitude in any of the said states." It was a prospective measure, planned to extinguish slavery in the western territory organized in 1801.

The proposal had several flaws, however. For one thing, Jefferson did not show how the western territory would ever become free. Presumably, the territorial or state legislatures created in the region could abolish slavery, but Jefferson did not say so. At any rate, the proposal pleased no one. Northerners rejected it because they favored free labor. Southerners rejected it because they favored slave labor, at least in the future states of Kentucky and Tennessee where squatters had already carried slaves. As historian Richard Morris puts it, "The South was not ready to abolish slavery in future territories south of the Ohio River."

Revolutionary War leaders such as Timothy Pickering denounced the Jefferson proposal. "The admission of [slavery] for a day or an hour ought to have been forbidden." Pickering and speculators who hoped to benefit from an organized western territory formed the Ohio Company on March 1, 1786, to present the interests of war veterans to Congress. The Ohio Company's board of directors included such talents as Dr. Manasseh Cutler, a physician and legal scholar, who had a great deal of influence with political leaders in the Confederation government. The Ohio Company transformed western expansion from a squatter-based movement to a business venture. That possibility excited speculators who expected to buy land at no more than eight cents per acre! It was a great investment, and the western territory needed only to be organized to make that possible.

While land promoters were haggling with Congress over the western territory, Timothy Pickering discovered an ally. He did not know Rufus King before 1785. King, elected to Congress in 1785, quickly earned a reputation as an influential delegate. His debating skills earned him prominence in Massachusetts and in Congress. He became a spokesman for the northern interest, and he early represented some of the views of Timothy Pickering. When King denounced Jefferson's antislavery proposal, he drew Pickering's attention. Pickering then wrote to King and asked him to bring before Congress the matter of banning slavery in the western territory. King replied favorably: "Your ideas on this unjustifiable practice are so just that it would be impossible to differ from them."

The King committee reported on March 16, 1785: "There shall be neither slavery nor voluntary servitude in any of the states described in the resolve of Congress of the 23 April 1784, otherwise than in punishment of crimes." The abolition proposal had its supporters. Congressman William Grayson of Virginia quipped sarcastically that there were seven Northern



states" "liberal enough to adopt such a measure." But delegates from Virginia and North and South Carolina killed the motion. King and his colleagues subsequently revised the bill by adding a fugitive slave clause: any person who escaped from labor could, upon a claim by the person from whom such labor was due, be subject to removal. But the clause did not save the bill, primarily because there was little reason for Southerners to approve abolition anywhere in 1785.

Two more years elapsed before Congress again gave the subject serious consideration. As national leaders set their sights on Philadelphia, the western territory hung in the balance. The Constitutional Convention wanted Congress to resolve the slavery issue. With some political leaders serving in both the Convention and the Congress, "The distracting question of slavery was agitating and retarding the labors of both," claimed James Madison. The Ohio Company sent agents to New York to remind Congress of the high price of delaying organization of the western territory. Manasseh Cutler arrived in New York on July 5, 1787, to warn that the Ohio Company would withdraw its proposal. Apparently, that threat was enough to rouse a passive Congress. "We found ourselves rather pressed," Nathan Dane told Rufus King. Dane, a delegate from Massachusetts, served on the congressional territorial committee. He also wrote the article that prohibited slavery in the Northwest Territory. Faced with the possibility of losing investors, he said, we "finally found it necessary to adopt the best system we could get."

The Dane committee reported a revised bill on July 11, 1787. When Dane sensed the tide running in his favor, he took a leap of faith and placed Rufus King's abolition clause on the table. "When I drew up the Ordinance, I had no idea the states would agree to the sixth article, prohibiting slavery." He also added a fugitive slave clause, but excluded from consideration the lands south-west of the Ohio River. Neither Jefferson nor King had given this subject much thought. Dane now proposed to prohibit slavery only in the section north of the Ohio River. As historians Harold Hyman and William Wiecek write, "It was a tacit permission for slavery to expand into the western lands south of the river."

Farmers in the Illinois country initially interpreted Article 6 literally, reading it as an abolition law. R.K. Meade, an ex-Virginian, considered Article 6 a positive ban on slavery. He believed its abolition principle was recognized "even in southern states." Historian Theodore Calvin Pease confirmed this observation, noting that the "literal construction [of Article 6] was apparently assumed by everyone," and this interpretation "ultimately prevailed in the courts." Consequently, Illinois slaveholders considered Article 6 a threat to their way of life. A slaveholder who immigrated in 1788 told an Illinois resident, "Your [soil] is fertile, but a man can't own [Negroes] here, god-durn ye." Intimidated by the Ordinance of 1787, some slaveholders released their chattels. Others abandoned their farms and immigrated to other regions. Still others developed theories to weaken Article 6.

Although the Ordinance of 1787 apparently created a free territory, settlers in Illinois were either immigrants from the South or descendants of France. Since at least 1660 slavery was a way of life for British settlers in the South. French settlers in Illinois introduced involuntary servitude to the region in 1719. Neither group approved Article 6. Bartholomew Tardiveau, an Illinois slaveholder, told Arthur St. Clair (whom Congress had appointed governor of the Northwest Territory on October 5, 1787) that slaveholders, fearing a loss of their property, had begun to remove their slaves and take up residence in Spanish colonies. Tardiveau initiated the movement to make human property again legal in the Illinois country.

Tardiveau complained to Congress on September 25, 1788, that a delegate had assured him slavery would be secure in Illinois. The "resolve had been solely to prevent the future importation of slaves into the federal territory; that it was not meant to affect the rights of ancient inhabitants; and promised me to have a clause inserted [which would explain] its real meaning." Tardiveau offered an interpretation of Article 6, claiming that it amounted to an ex post facto law that was invalid under the English common law. He argued that the economy in Illinois was dependent on slave labor. A literal reading of Article 6 "would deprive a considerable number of

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whites of their property acquired and enjoyed long before they were under the dominion of the United States." Congress assigned the memorial to a committee chaired by James Madison. The committee ruled that Article 6 did not disturb slavery. Article 6 restrained "settlers in the future from carrying persons under servitude into the western territory." The legislature, however, never ruled on the question. While Congress's failure to act might have suggested approval of his interpretation, Tardiveau did not settle for it and pressed St. Clair for a ruling on the matter.

St. Clair himself was a slaveholder, and he had taken slaves into the Old Northwest when he assumed his post in 1787. Moreover, St. Clair purchased slaves after taking up residence in the territory, and he boldly recorded their names in the federal census. He did not agree with antislavery sympathizers. When slaveholding farmers in Illinois insisted on retaining chattel property, the governor readily identified with them.

St. Clair immediately refined the interpretation developed by Tardiveau and presented it to the Confederation Congress. He told the Congress that Article 6 had become a retrospective law, divesting Illinois residents of slaves they held before 1787. He reminded the Congress that the slave codes of France, Britain, and such slaveholding states as Virginia had secured slavery in Illinois and the rest of the Northwest Territory. He warned that applying Article 6 as an abolition law virtually deprived a citizen of his property without just compensation. And he urged that Article 6 be seen as a prospective law, which applied to incoming immigrants only. St. Clair applied to the Illinois territory the gradual emancipation policy that had been used in other Northern communities.

Article 6 possibly went beyond the comfort zone of many confederation leaders. Certainly some lawmakers supported the ultimate extinction of slavery; however, political exigencies had made gradual emancipation prudent. Slaveholders in the states had recoiled at immediate emancipation, and the subject had caused Congress grief since at least 1784. Governor St. Clair understood lawmakers' ambivalence. A seasoned politician, St. Clair did not directly challenge the authority of the national government to regulate slavery in federal territory. By conceding that the clause in the Ordinance automatically freed American slaves brought into the territory after 1787, he brought the region formally in line with current legal policies. The compromise seems to have been accepted as a workable solution, and leaders in the national capital left the matter to the territorial governor.

Despite his acceptance of Article 6 as a political compromise, St. Clair's interpretation failed to hold up under the scrutiny of later legal scholars and that of American judges. As historian Daniel Ryan stated in 1912, "There was absolutely no foundation nor justification for this construction, and St. Clair himself receded from it in later years. The construction was never admitted by any other authority of the government." To sustain such an interpretation of the article, Ryan concluded, requires distortion of its language. Judge Carrington T. Marshall, who wrote a historical sketch of the courts and lawyers of Ohio in 1934, explained that only a jurist could decide the validity of a federal law. "Every statute finds its true meaning in its interpretation by courts of justice." That same year, Clarence Carter criticized St. Clair for ignoring the literal meaning of Article 6 in order to approve slavery. Non-enforcement of a policy or law, Carter insisted, does not settle the question of intent. St. Clair's ruling failed to convince Carter that the framers of Article 6 did not intend to abolish slavery in the Northwest Territory. Pulitzer Prize-winning historian Don Fehrenbacher, writing more than a generation later, put it more poignantly: "The head-start thus given to antislavery in the West was soon offset in several ways."

St. Clair's interpretation of Article 6 did not nullify the clause, however. Congress refused the petition of Illinois and Indiana slaveholders who wanted to suspend Article 6. Although William Henry Harrison, Governor of Indiana, supported a memorial claiming that slavery was vital to the continual growth of the territory, Congress replied in 1803 that "it is inexpedient to suspend the operation of the Sixth Article of compact between

the original states and the people and states west of the river Ohio." Territorial judges also enforced Article 6 as a ban against slavery. In a 1799 case Judge George Turner ruled that Article 6 prohibited slavery in the Northwest Territory. Turner considered irrelevant the claim that the Africans had been slaves before 1787. Turner, however, was out of step with Congress. The legislature swiftly punished him by removing him from his post. Apparently, leaders in the national government embraced St. Clair's interpretation of Article 6. As William Wiecek puts it, "St. Clair's interpretation of Article 6 was probably in accord with the intention of the framers of the Ordinance." Article 6 did not survive as an abolition law; nonetheless, it developed as a gradual emancipation policy.

Unable to rescind Article 6, the legislature for the Illinois territory introduced a system of indentured servitude in 1807. The code allowed whites to bring slaves into the territory as long as within sixty days the slave owner drew up a contract with the slave. Slaves up to 15 years of age could be held in servitude until age 35 (if a male) and age 32 (if a female). An offspring followed the status of the indentured mother, males until age 30 and females until age 28. The law required only that the slave agree to the contract. The legislature modeled the policy on the slave codes of Virginia and Kentucky. Territorial governor Ninian Edwards, himself a slaveholder, endorsed the policy upon his inauguration in 1809. The Ordinance of 1787 approved voluntary servitude, he claimed, as long as the servant consented to the contract. Such a contract was "beneficial to the slaves." But a slave stood little chance of successfully negotiating a fair contract with a slaveholder.



The code also instructed slaveholders to provide adequate food and shelter for their servants. Servants should be given, at a minimum, such articles as clothing and bedding. But the code also approved corporal punishment and an assortment of legal disabilities. Servants were denied equal protection of the law. They could not post bail if arrested, stage a public protest to assert their rights, nor bear arms for service in the militia. They also needed a pass for travel and could be sold at public auctions. Rebellious servants could be sold South into slavery.

Slavery remained a divisive issue when the Illinois Constitutional Convention met in 1818. However, slaveholders had virtually given up the idea that Illinois could approve de jure slavery in its constitution. The Ordinance of 1787 made it unlikely that Congress would admit to the Union any state from the Northwest Territory that did not prohibit slavery. Proslavery leaders in Illinois circumvented Article 6 by writing into the state Constitution an abolition clause that amounted to a prospective law, which prevented whites from bringing slaves into Illinois after adoption of the Constitution. It also forbade the hiring out of slaves in Illinois. But the constitution allowed a slave to enter into an indentured contract after 1818, a practice which amounted to a *de facto* form of slavery.

Certainly there were reasons for skepticism about the enforcement of Article 6 in Illinois. Nonetheless, Congress ignored the signs and approved Illinois' application for statehood. The abolition movement was only on the horizon in 1818, and Illinois leaders correctly read the signs. They saw approval of their indentured servitude policy as endorsement for a quasi freedom for African Americans. In 1819, Illinois elected a proslavery government. Under the leadership of Governor Shadrach Bond, African Americans reached a nadir. The legislature completed the cycle that year when it adopted black laws, which subordinated all African Americans in the state and imposed barriers on immigrating blacks. The black laws denied the vote to African Americans, prevented them from offering testimony against a white in a court of law, and withheld from them state-funded welfare. African Americans were required to carry a pass for continual residence and employment. With this system of oppression, Illinois practiced a form of slavery until the Civil War.

# The Edwardsville Spectator

May 2, 1820

JAMES WRIGHT,  
TAILOR,

**I**nforms the public that he is now prepared to execute any kind of work in his line of business, in the neatest and most fashionable manner, and on the shortest notice. Officers' uniforms made in the most elegant style.

 An **APPRENTICE**, from 14 to 18 years of age, wanted to the above business.

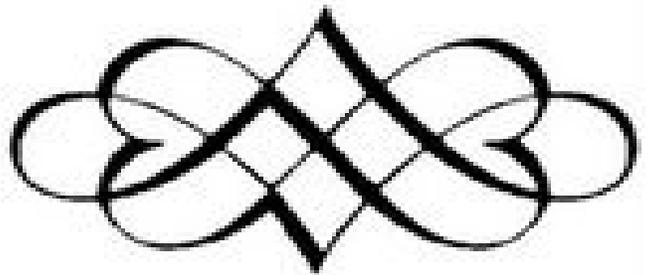
N.B. The members of the Artillery Company can have their uniforms made in an elegant and cheap manner, on the shortest notice.

**JAMES WRIGHT.**

April 18—47tf

*Welcome New  
Volunteers!*

Brad Craddick  
Nancy Fluss



## *The Volunteer*

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