

Bovee

Landmark Spring 1965

The End of the Rope

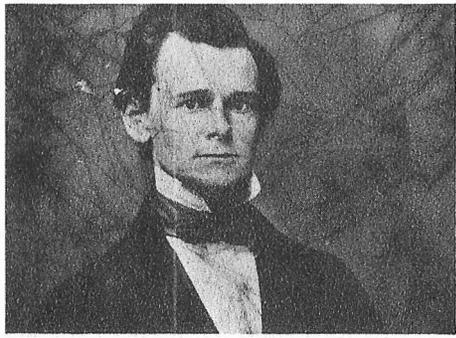


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By James Babcock

On June 8th, 1843 a boat landed in Milwaukee, bringing to the then Territory of Wisconsin a 16 year old lad who ten years later would become a State Senator from Eagle, and succeed in abolishing capital punishment in Wisconsin. His courage would not only contribute to the shaping of Wisconsin as the vanguard state, but would put him in contact with the leading men of American intellectual life, and would give hope not only to his time but to ours as well, that 'man shall prevail.'

Two months after his arrival in Milwaukee, Marvin H. Bovee together with his father Mathias, his mother Elizabeth, and his 7 brothers and sisters moved to Eagle. The Hinkleys, Shermans, and Thomases, had established the community seven years earlier. The wilderness sounds of Indian rituals and wild animals were beginning to succumb to the sounds of civilization, not only the sounds of the falling of trees, the building of cabins, the clearing of land and the plodding of oxen, but the sounds of hymn melodies, the reading of lessons, and the heated dialogues between men of different backgrounds, religion, and opinions, which would in Hegelian fashion resolve thesis and antithesis into the synthesis we call history.

The Bovees brought to that dialogue their own liberal views in both religion and politics. Marvin's father Mathias served as representative from his native Amsterdam in the 1826 New York State Assembly and voted for the first railroad charter in the United States, the Albany and Schenectady Road. In 1834 he served the 25th Congress of the United States as a Jackson Democrat. In religion the Bovees were Universalists, Christians who denied the concept of hell and believed that all of humanity would ultimately enjoy paradise. Both Marvin and his father were among the founders and charter members of the Robert Morris Lodge of Free Masons No. 115 of Eagle.

Young Marvin, farmer and four term school teacher near Eagle, entered political life by teaming up with John Walker and writing an attack on the Whig high tariff position and the National Bank Act. In the autumn of 1852, 25 year old Bovee was elected Chairman of Eagle township and subsequently Chairman of the Waukesha County Board. The Democrats, however, were hard pressed to find a candidate to unseat Dr.

E. B. West, Whig Senator from the 10th district. On September 10th, 1852 at a meeting held in Waukesha they nominated Marvin Bovee for State Senator. With editorial support from Henry Barron's *Waukesha Democrat*, Bovee defeated Dr. West by 353 votes.

Abolition was not an issue in the campaign, however, a year earlier in 1851, the August 19th edition of the *Waukesha Democrat* had aired Bovee's views on the subject. Bovee referred to the death penalty as: "a dark spot resting on us as Christians. A life once taken can never be restored, but liberty can be given and restoration made to an unfortunate being who has been unjustly imprisoned."

The origins of these views are difficult to establish. Anti-gallows Societies were active in Bovee's native New York State, however, and had the support of both De Witt Clinton, a former governor and a sponsor of the Erie Canal, and George Clinton, Vice President of the United States under Jefferson and Madison (1805-1812). One would suspect also that Bovee's Universalism played a significant roll in the development of his own views. If Bovee's God did not condemn offenders to eternal death, but rather considered all of humanity redeemable, certainly society ought to reflect this by abolishing capital punishment and working to refine this divinely seen goodness of man. Finally, one would suspect Bovee himself was a highly sensitive and gentle individual whose views with respect to both religion and abolition, while radical, came to himself quite naturally.

A good many people were not ready for this reform. Conservatives still argued an eye for an eye, and even among Abolitionists some favored simply abolishing hanging as a public spectacle, while still others favored a law giving the jury authority to determine a sentence of either life imprisonment or death.

Aware of an earlier failure to abolish the death penalty in Wisconsin at the first constitutional convention, but encouraged by: the examples of Michigan in 1847 and Rhode Island in 1852, by the Democratic majority in the 1853 Wisconsin Legislature, by the full support of Waukesha County's oldest Senator, G. R. McLane, Democrat from the 9th district, and the support of Edward Lees, Democrat representing Ottawa, Mukwonago, Genesee, and Eagle, Bovee drafted Bill 67-A repealing the death penalty.

Edward Lees as committee spokesman for the bill made the following report to the Assembly January 27th, 1853:

"That in giving the subject a careful and candid investigation, your committee are fully convinced that the taking of life by the process of law is not only inexpedient and unproductive of good results but at variance with the principles of a pure Christianity. The experience of the past has fully proved that the severity of punishment has not lessened the commission of crime, but on the contrary the establishment of the most rigorous penalties has been accompanied by a corresponding increase of that crime for which said penalties were intended to prevent.

"That there is in community an increasing care and tenderness for human life. That public sentiment is such that the taking of life by authority of law is regarded as a barbarous cruelty and more befitting the darkened pages of the past, than the age of which intellect, virtue, and refinement are the characteristics. Believing that crime would be decreased and the certainty of conviction more fully attained by the unconditional repeal of the death penalty your committee would report the said bill back without amendment and recommend the passage of the same."

The Assembly laid the bill on the table. On February 28th a motion was made and sustained to take it up. On March 4th it was engrossed

and read a third time on March 8th it passed by a vote of 36 to 28 with 8 absentions. Waukesha County's 4 assemblymen voted as follows: Edward Lees and Winchel D. Bacon, yes, Orson Reed, no, Elisha Pearl, no vote. The Senate passed the bill July 8th, 1853 by a vote of 14 to 9. Bovee and McLane, Waukesha's two senators voted in the affirmative obviously. On July 10th Governor Leonard Farwell signed the bill making it Chapter 103 of the Laws of 1853. The new law was a 'startling innovation in the history of jurisprudence' for it abolished the death penalty unconditionally. Rhode Island and Michigan, while abolishing it for all practical purposes, permitted it however under very unusual circumstances. Twenty-six year old Marvin Bovee, who never again held public office, spent the rest of his life preventing its repeal and advocating its adoption in other states. The *Milwaukee Sentinel* reported on November 14th, 1859:

"Hon. M. H. Bovee of Eagle will shortly start for New York State on a lecturing tour for the purpose of advocating the abolition of Capital Punishment. Mr. Bovee is a young man of much intellectual ability who does a great amount of his own thinking and expresses his thoughts in a clear, forcible, and fluent style. We commend him to our friends in the Empire State."

On January 11, 1860 the *Sentinel* reported that Horace Greely had announced Bovee's forthcoming crusade in the *New York Tribune* as follows:

"Blessed Mr. Bovee is coming here to commence a systematic agitation against hanging. The Blessed Mr. Bovee who was prominent in the successful effort made seven years since for the abolition of hanging in Wisconsin. We believe (adds the Tribune) the time has come for a still further advance to be made, a still further saving of life to be effected by substituting for the death penalty some punishment or punishments less sanguinary and less irremediable."

Three days later on the 14th the *Sentinel* continued its special report:

"Mr. Bovee who is leading the anti-capital punishment crusade in New York makes his appearance in a three column article of the N. Y. Tribune of the 6th, with the strong editorial endorsement of Horace Greely. We make the following extract from his appeal touching our own state which may be of interest to our readers. 'Here then, we find that for nearly seven years the most gratifying result has marked the abolition in Wisconsin, and though several attempts have been made to restore the gallows, it has met with signal failure - At the last session of the Legislature a bill was introduced into the senate prescribing the death punishment in certain aggravated cases of murder. It passed that body by a small majority, but was overwhelmingly defeated in the house, which refused it even the courtesy of discussion and any future attempt to restore hanging in that state would be utterly unsuccessful.'"

The advent of the Civil War wrought a change in the public reception of Bovee's views. The *Sentinel* observed April 10th, 1861:

Hon. Marvin H. Bovee returned to Wisconsin yesterday from an extended visit through the Eastern States where he has been advocating the abolition of capital punishment. He says that secession however, has played the deuce with his prospects as every man he talks to now and who heretofore was in favor of the abolition wants to see a few traitors hanged first."

The war necessitated a slackening of Bovee's pace and at the age of 35 he found time to marry Miss Laura S. Dowd, eldest daughter of Captain John Dowd of Burlington. The Rev. C. D. Halmer of Milwaukee united the couple in wedlock at Eagle in an evening ceremony on October 13th, 1882. Two children were born to them: Maude Bovee Halverson and Rollin J. Bovee.

Bovee's crusades were successful in New York, although the death penalty was restored at a later date. He also succeeded in Illinois by having public executions outlawed and by giving the jury the right of determining the penalty. A law similar to the one enacted by Illinois was passed at Minnesota after he addressed the Minnesota Legislature. The moral, sociological, psychiatric, and legal considerations of abolition were presented in his book *Christ and the Gallows or Reasons for the Abolition of Capital Punishment* published by the Masonic Publishing Company in 1870. It was through the solicitation of opinions for this book and later in promoting its sale by private subscription, that Bovee made contact with the leading intellectuals of 19th Century American life. William Cullen Bryant in a letter addressed to Bovee dated November 3rd, 1867 encouraged him to write the book.

"I am glad that you think of publishing a work on the subject, which I hope will receive discussion in this part of the United States. As soon as the reconstruction question can be got out of the way there will be room made for other matters of controversy which are now defrauded of their due attention."

After receiving a copy of Bovee's book, Longfellow, in a letter to Bovee dated June 3, 1874 expressed the following hope:

"Though late, accept I beg of you my cordial thanks. It is a work that ought to do a great deal of good in the world; and I hope you may live to see the benevolent cause you advocate prevail throughout the land, and all lands."

And in an undated letter John Greenleaf Whittier wrote:

"I enclose \$5.00 wishing I could make it \$80.00 Fully appreciating thy service in the cause of humanity I am very truly your friend."

In the late 1870's Bovee and his family moved to Whitewater. Discouraged by the lack of progress in the abolition movement, Bovee in his later years worked for prison reform, the creation of industrial schools similar to the Wisconsin Home of Refuge opened in Waukesha in 1857, and as always for the Democratic party.

In a sense for Bovee "too fragrant was life's early bloom, too tart the fruit it brought." After an enervating life of constant activity and the inevitable disappointments idealists encounter, he died May 7th, 1888 of melancholia at his home in Whitewater. The *Whitewater Register* of May 10, 1888 after paying tribute to him sadly records:

"The constant strain upon mind and body was too great and resulted in utter mental and physical prostration. Melancholia succeeded, and with occasional only apparent improvement, his physical health constantly failed until the end."

Our county's pious Victorians dimly viewing the world through their stereoscopes, ignored Bovee and denied him a just place in Waukesha's history. Partly this was the result of their concern with vanishing Indian Mounds, their concern with recording facts relating to pioneer settlements, and in their excessive devotion to have their own names recorded in history they did little reflecting upon or evaluating of history. Then, too, Bovee like all controversial zealots seldom receive their due appreciation. Modern psychology, sociology, and penology only add new strength to what he knew was right when his bill 67-A was passed 112 years ago. Certainly Marvin Henry Bovee commands a distinctive place in the history of Waukesha County, in the history of the state, and indeed in the entire history of social reform. END