



# Battle Cry

Founded 1961,  
Newsletter of the Sacramento Civil War Round Table  
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<http://sacramentocwrt.com/>

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Battle Cry deadline is  
1:00PM Wed. two weeks  
before the regular meeting.  
Items can be given the editor  
by hand, mail or e-mail.

## President's Message:

Don't you wish you had a bicycle? Well, maybe not quite that, but Harvey's ride up the Underground Railroad sure sounds interesting! Using the word "ride" is a bit misleading – a large number of Harvey's calories were burned. I'm sure that there were several sore spots at trip's end as well! Thanks so much to Dr. Cain for sharing this marvelous experience with us. The reach of our membership never ceases to amaze me!!!!

I am constantly challenged and inspired by the events, circumstances, and people of the Civil War! However each of us arrived at this interest, what a special one it is! Personally, I am slightly more interested in the Western theater than the East. This can no doubt be explained by the fact that I went on an extensive western theater tour early in my Civil War exploration. This Stephen Ambrose tour started in New Orleans and headed north. We investigated Bruinsburg, Port Gibson, Raymond, Vicksburg, Port Hudson, Brice's Cross Roads, Corinth, Shiloh, Nashville, Franklin, Murfreesboro, Chickamauga, and Chattanooga! I believe that most of the Civil War news of the day came out of the east, but the war was won in the west! Gettysburg was historic, but Vicksburg more directly moved the war toward its final conclusion. What is your favorite area of interest? Maybe there is a Wednesday night program in there somewhere?

Another Civil War game that I enjoy playing is who is your favorite personality / general / politician on each side? I will stay on the military side and go with Grant and Cleburne. Who do I choose as the most over rated? Don't get angry with me, but I say Lee and Chamberlain – maybe I felt differently before the movie Gettysburg? I'd be interested in your views of these categories!??

As you know, the program scheduled for our September 10<sup>th</sup> meeting was "Lincoln and Davis at War" featuring Ted Savas. Due to illness, Ted has requested to delay his presentation until October. Our October speaker, George Beitzel, has agreed to exchange so we will enjoy learning about Lincoln's "Rubber Room" when George takes the podium at our next meeting. As usual, my advice is to come early and stay late. See you at the Hofbrau!

**Paul Ruud, President**

**Treasurer's Report:**

The cash balance following the August 13, 2008 meeting was \$2,446.55. Thanks to John Zasso, other members, and guests, the raffle brought in \$92.00.

**George Foxworth, Treasurer**

**MINUTES**  
**SACRAMENTO CIVIL WAR ROUND TABLE**  
**AUGUST 13, 2008**  
**HOF BRAU RESTAURANT, WATT AVE, SACRAMENTO, CA**

Attendance-41

Members-39

Paul Ruud, President	Scott Dmytrow	James Juanitas
Dennis Kohlmann, Vice President	Lydia Donaldson	Lowell Lardie
George Foxworth, Treasurer	Bill Donaldson	Victor Le
Edie Keister, Secretary	Fred Elenbaas	Cressie Mendes
Joan Beitzel	Brad Friedman	Phil Mendes
George Beitzel	Alan Geiken	Jim Middleton, Editor
Ken Berna	Kyle Glasson	Vivian Miller
Roy Bishop	Bob Hanley	Betty Mitchell
Carol Breiter	Scottie Hayden	Maurice Mitchell
Marsha Cain	Don Hayden	Drew Van Winkle
Harvey Cain	Nancy Hayden	Bob Williams
Irene Cole	Pam Hubbard	Susan Williams
Evan Cole	Chuck Hubbard	John Zasso
		<u>Guest-2</u>
		Julie Black (Hayden)
		Sean Keister

1. Meeting started at 7:00. The Conference in Clovis discussed -hotels and car pools. Conference in Gettysburg Oct. 2-3-4. Member and Vice President Dennis Kohlmann will be attending.
2. President Ruud shared facts on General Meades horse, Old Baldy. His wounds, retirement, and resting place.
3. Member Don Hayden introduced friend and fellow colleague, Dr. Harvey Cain, (also a member) who presented, "Bicycling the Underground Railroad." Dr. Cain gave a fascinating talk on the beginnings of slavery in the U.S., through the Civil War. Slides were presented, thanks Marsha. (Harvey's wife) Many photos provided -the participants, stations, and newspaper articles. Question and answer session followed. Thank you for the ride along the Railroad, -Harvey and Marsha, it was great, and we didn't even have to pedal.
4. Raffle was held, and meeting adjourned at 8:37.

Edie Keister  
Secretary

Welcome new member, Fred Elenbaas!

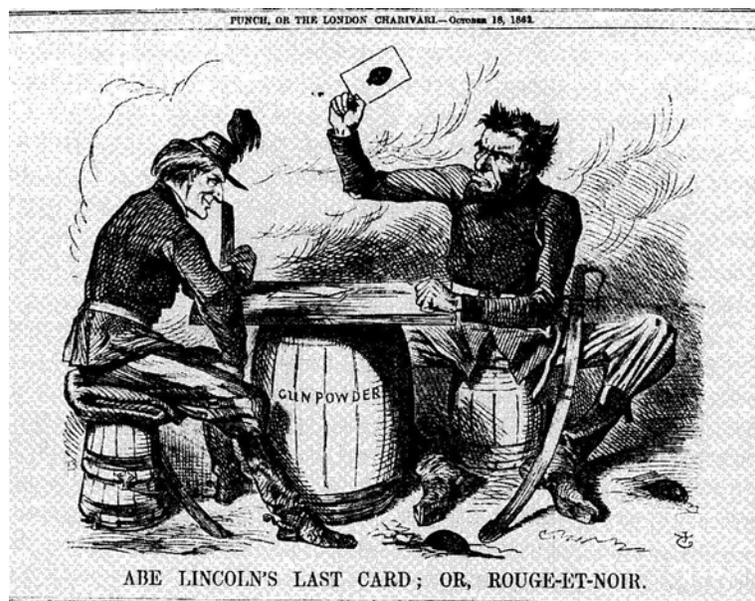
Coming Programs 2008		
Date	Speaker	Topic
Sept. 10th	George Beitzel	"The Rubber Room"
Oct. 8th	Ted Savas	"Lincoln and Davis at War"
Nov. 12th	Tim Carlsberg	"Acting as Capt. of CA 100"
Dec. 10th	Brad Schall	"Political Climate in 1860 California"
Jan. 14th	Paul Ruud	"Antebellum West Point"

## 2009 Election – SCWRT Officers

In accordance with the SCWRT By-Laws, we will be electing the officers to lead our Round Table during 2009 at the October or November 2008 meeting. The position of **President** is open at this time. If you are interested, please contact George W. Foxworth at 916-362-0178 or [gwoffoxworth@sbcglobal.net](mailto:gwoffoxworth@sbcglobal.net). The following members have agreed to serve in 2009:

**Vice-President**, Silver Williams; **Secretary**, Edie Keister; **Treasurer**, George W. Foxworth; **Battle Cry Editor**, Jim Middleton; **Member-at-Large**, Bob Hanley; **Member-at-Large**, Richard Sickert. Our current **Web Master** is not a member, she is a consultant to the SCWRT Board, but is not an elected officer.

**Before the vote in October or November, you will have the opportunity to nominate other candidates from the floor.** The only stipulation is the person nominated must have already agreed to serve in 2009 if elected.



*"Abe Lincoln's Last Card; or, Rouge-et-Noir." London Punch, October 18, 1862.*

# **“Lincoln and the Court”**

## **Authored by Brian McGinty**

### **A Book Review by Michael Wolf**

One does not have to be an attorney to enjoy this book. I'm not, and I did. Brian McGinty is a lawyer and a good writer whose book is devoid of legal jargon, and who presents legal issues in clear, concise prose that a layman can understand and evaluate. "Lincoln and the Court" (2008; Harvard University Press) is balanced among significant cases, vignettes of the justices, and revealing discussions of the judicial ethics and politics of the day.

Well known cases, such as Dred Scott, Ex parte Merryman, and Ex parte Milligan, are examined. Equally important cases, such as the Prize Cases, the Legal Tender Cases, and Ex parte Vallandigham, are also reviewed. In the Prize Cases, decided 5-4 in 1863, there were "enormous consequences that could flow from an unfavorable Supreme Court ruling. It was not merely the blockade that would be at stake but potentially all of the decisions Lincoln had made as commander-in-chief. If the president had no authority under the Constitution to blockade the Confederate States, what authority did he have to call up the militia in the first days of the rebellion? ...to suspend habeas corpus? ...to emancipate the slaves in states in rebellion against the government?"

There were three vacant seats when Lincoln was inaugurated, and he was soon to appoint a tenth justice. On July 23, 1866, President Johnson signed an act to reduce the size of the court to seven, and it fluctuated for about four more years. The story of our expanding and shrinking Supreme Court is well told by Mr. McGinty.

As Secretary of the Treasury in 1862, needing a new source of money to finance the war, Salmon P. Chase devised "treasury notes that were not backed by either gold or silver, but that were declared to be 'legal tender' for the payment of all debts, public and private." Between February, 1862 and March, 1863, Congress authorized \$450 million of these notes, popularly called "Greenbacks." (And guess what vain, politically ambitious Cabinet member put his own portrait in the upper left-hand corner of the \$1 bill?)

One of the first serious challenges to the Legal Tender Act was raised in New York in 1863 by James Roosevelt (father of FDR), and there were many more to come. In February, 1870 Chief Justice Chase, writing for a 4-3 majority, concluded that the Legal Tender Act was unconstitutional. Was this the same Salmon Chase who wrote the law in 1862? You bet!! (The author notes that "Lincoln had appointed him chief justice at least in part because he believed that Chase would sustain the government's position on legal tender, and in the end he did not." (Wouldn't we call this a "flip-flop" today?) One of Chase's concurring brethren, Justice Stephen Field, called this "intellectual integrity...the honest judge rather than the consistent statesman."

How could an important decision like this, affecting millions of people and hundreds of millions of dollars, be decided by less than a majority of five votes? Easy, when you're the Chief Justice! Justice Grier (who historians believe tipped off President-elect Buchanan as to the not-yet released Dred Scott decision in 1857), had become senile and had been persuaded by three colleagues to resign, leaving only seven justices on the court. "Everybody knew that President Grant would soon appoint two new judges, one to succeed Grier and the other to fill the new ninth seat..." Justice Samuel Miller (who had been a practicing physician before he became the outstanding lawyer whom Lincoln appointed to the court) later wrote that "the minority begged hard for delay until the bench was full. But it was denied by Chief Justice Chase."

After the new justices were confirmed, Justice Miller sought to have the case re-argued and re-decided. He prevailed, but he wrote that Chief Justice Chase "had resorted to all the stratagems of the lowest political trickery." The previous 4-3 decision was reversed, 5-4 (with Chase and Field dissenting, of course).

In *Ex parte Milligan* (1866), Justice David Davis, a Lincoln appointee, invalidated an 1864 military court conviction of Lambdin Milligan, a Confederate sympathizer. The Supreme Court reasoned that since civilian courts were functioning at the time, they had jurisdiction, and not the military.

In December, 1866, lawyers for Dr. Samuel Mudd sought his release from prison in the Dry Tortugas because Mudd's conviction, like Milligan's, had been by a military court when civilian courts were available to try him. Justice James Wayne refused to order Mudd's release. Wayne, a Georgian, was the senior member of the court. He was pro-slavery, but a strong Unionist, appointed in 1835 by Andrew Jackson. He refused to follow his colleague, John A. Campbell of Alabama, who resigned from the court in April, 1861. All Wayne's assets in Georgia were seized, and he and his wife were never able to return home. He died at age 77 in 1867, having served for more than 32 years, second only to his first Chief, John Marshall.

Can you imagine a Chief Justice politicking hard for a presidential nomination today? In May, 1868, the Republicans nominated Ulysses Grant, so Chase, a staunch Republican for years, tried for the Democratic nomination. "He began a letter-writing campaign in which he let it be known that, while he had no presidential 'ambitions,' under appropriate conditions, 'I would not be at liberty to refuse the use of my name.' His daughter Kate moved to the Fifth Avenue Hotel to take personal charge of her father's campaign." But he got only four votes of the 263 required.

Mr. McGinty also tells the humorous (It wasn't funny then) story of the outrage and indignation of Charles Sumner and other Radical Republicans in February, 1865 over Lyman Trumbull's Senate resolution (it had already passed the House) to appropriate \$1,000 for a marble bust of the late Chief Justice Taney. Their florid oratory is amusing today, but it shows the bitterness still lingering from the Dred Scott decision and from the war. In December, 1873, seven months after Salmon Chase died, a bill providing for \$2500 for marble busts of both chief justices was passed, with Sumner's silent acquiescence.

"Lincoln and the Court" ranges wider than "Lincoln and Chief Justice Taney" (2006), which I also reviewed and liked. It added to my knowledge of Taney, Chase, and these important cases. This, and the stories about other judicial and political personalities (and the shenanigans they got away with), is both valuable and entertaining for anyone seriously interested in the Civil War.

As a somewhat amusing aside, it is mentioned that three justices went to Justice Grier in 1872 to persuade him to resign because he was senile, which he did. One of them was Justice Stephen Field, then in his 50s. In the early 1890s, when Field was in his 80s, one of the younger justices (maybe John Marshall Harlan, but historians are not sure) was assigned to persuade Field to retire because he was senile. Harlan wondered how to approach this unpleasant task. He said to Field, "Mr. Justice, do you remember about 25 years ago, you asked Justice Grier to retire because he was no longer able to decide cases?" Field glowered at Harlan, and thundered, "*Yes I do, and a dirtier day's work I never did!!*" Harlan must have beat a hasty retreat, and thought of a 'Plan B'. Field, an extreme conservative, did not retire, because he didn't want President Cleveland to appoint his successor. He waited until McKinley was elected, and then retired.

**Submitted by Bob Williams; 8-28-08**

The San Joaquin Valley Civil War Round Table, American Legion Post 147 of Clovis, the Central California Chapter of the Association of the United States Army, and Civil War Round Table Associates of Little Rock, Arkansas, in memory of Jerry Russell, invite you to the

**24th Annual West Coast  
Civil War Round Table Conference  
November 7-9, 2008**

**Clovis, California**

(adjacent to and northeast of Fresno)

**"Civil War in the Shenandoah  
Valley"**

**Featuring:**

Robert K. Krick, Jeffry Wert, Jim Stanbery, Peter Cozzens, Evan Jones, Don and Bill Bennett, David Paul Davenport, and Emily and Olivia Moats, in a one-act play based on the Civil War diaries of Laura Lee, Secessionist, and Julia Chase, a Unionist, residents of Winchester, Virginia.

The Brass Band of the Central California Chapter of the Association of the United States Army will regale registrants with music of the period on Friday the 7<sup>th</sup> before dinner.

*A special showing of Shenandoah with Jimmy Stewart will be presented in the barely a year old theater/auditorium of the Veterans Memorial Building on Friday the 7<sup>th</sup> at 9 pm.*

An optional tour on Saturday the 8<sup>th</sup> from 9 am to noon features a tour of the Fresno home of Dr. Meux (portrayed by Charles Baley), an assistant surgeon in the 9<sup>th</sup> Tennessee Vol. Inf. (C.S.A.) who moved to Fresno after losing his slaves and other valuables as a result of the war, and a tour to the Grand Army of the Republic Memorial and internments of Union Veterans of the War at Fresno's Mountain View Cemetery, led by G.A.R. historian Fred Bohmfalk of Elk Grove.

Comfort Suites (143 Clovis Ave, 559-299-9992) and Best Western Clovis Cole (415 Clovis Ave, 559-299-1547) hotels in Old Town Clovis have reserved blocks of rooms for us at only \$109.00 for a double room. Ask for the Civil War Conference Rate. The meeting will be held at the Veteran's Memorial Building at Hughes and 6th less than two blocks from the two hotels. The registration fee of \$175.00, includes six meals (Dinner Friday the 7th, breakfast, lunch, and dinner on Saturday the 8th, and breakfast and lunch on Sunday the 9th).

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Make checks for \$175.00 to SNCWRT P.O. Box 5695 Fresno, CA 93755