

THE CHARGER

June 2013

497th Meeting

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Tonight's Program:

Grant and Lee at the White House

It is not widely known that Robert E. Lee visited Ulysses S. Grant in the White House during Grant's first term as president. Little is known about this meeting, what was discussed or how either man felt about meeting with his old adversary. In March 1869, Grant invited Lee to the White House. Lee was welcomed on May 1. It must be noted that Lee was not a citizen at the time, having been stripped of his citizenship. It was restored by Congress in 1975. The men spent only about fifteen minutes together and no record was kept of what was said. History's loss is the Cleveland Roundtable's gain. The Roundtable Players will perform an original one act play speculating as to what Grant and Lee said to each other that day. Join us for an entertaining and educational close to our year.



Tonight's Speakers:

The Cleveland Civil War Roundtable Players

Mel Maurer - Ulysses S. Grant
Chris Fortunato - Robert E. Lee

**William Vodrey and John Fazio -
Reporters and Provocateurs**

Date: **Wednesday,
June 12, 2013 NOTE SPECIAL DATE**

Place: **Judson Manor
1890 E. 107th Street
Cleveland, Ohio**

Time: **Drinks 6 pm
Dinner 6:45 pm**

Reservations: **Please send an email to
ccwrt1956@yahoo.com with your reservation, or
call Dan Zeiser at (440) 449-9311 by 9 pm the
Sunday before the meeting.**

Meal: **Entree, vegetable, rolls, salad, and dessert.**

**CLEVELAND
CIVIL WAR ROUNDTABLE
FOUNDED 1957**

President: **Michael Wells** m.wells@csuohio.edu
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**Proposed CCWRT Officers
2013 - 2014**

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**Cleveland Civil War Roundtable
Past Presidents**

2012 Paul Burkholder
2011 Lisa Kempfer
2010 Dennis Keating
2009 Jon Thompson
2008 Terry Koozer
2007 John Fazio
2006 Dave Carrino
2005 Mel Maurer
2004 Warren McClelland
2003 Maynard Bauer
2002 Bill McGrath
2001 William Vodrey
2000 Bob Boyda
1999 Dick Crews
1998 John Moore
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1995 Norton London
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1990 Ken Callahan Jr.
1989 Neil Glaser
1988 Martin Graham
1987 George Vourlojianis
1986 Tim Beatty
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1983 William Victory
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1981 Thomas Geschke
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1968 Frank Moran
1967 William Schlesinger
1966 Donald Hamill
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1962 Edward Downer
1961 Charles Clarke
1960 Howard Preston
1959 John Cullen Jr.
1958 George Farr Jr.
1957 Kenneth Grant



Civil War Bookshelf: *Justice in Blue and Gray* by Stephen C. Neff

By William F.B. Vodrey
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Every now and then I get into arguments with people about the law of war.

“There’s no such thing as the law of war,” they say (or words to that effect). “War is hell. Anything goes. The only thing that matters is winning.”

“Oh, really?” I reply. “So you’d have no problem with, say, an officer ordering his men to kill all the unarmed civilians in a foreign town they occupy after it surrenders? Or, as a matter of policy, to always shoot prisoners after they surrender? Or work them to death in a concentration camp? Or torture or rape them? That’d all be fine, right, because there’s no law of war?”

“Uh...no,” they reply.

Clearly there is a law of war – but just how widely-observed it is, and just how effective it actually is, varies from war to war. In *Justice in Blue and Gray* (Harvard University Press 2010), Scottish legal scholar Stephen C. Neff explores the law of war as it existed and was honored, or more than occasionally breached, during the American Civil War.

Both the United States, as a republic under the rule of law, and the Confederate States, as a group of states attempting to secede from that republic and win independence in its own right, intended from the outset to wage war within the bounds of the law as it was then understood. Both wanted to maintain domestic support and win international backing, and being perceived as lawless or ruthlessly unprincipled would not be helpful in achieving those goals.

The most influential source on the law of war in 1861 was the Swiss writer Emmerich de Vattel. His 1758 book *The Law of Nations* was a key early statement of the law of war (including civil war) and international relations. Henry W. Halleck (yes, that Henry W. Halleck) wrote the treatise *International Law* in 1861, further refining and updating Vattel’s arguments. The Lieber Code, written at Halleck’s request by expatriate Prussian lawyer Francis Lieber, guided U.S. military legal policy during the Civil War, and it, in turn, had a major impact on the development of the Hague Rules, which to this day provide the framework for the international law of war.

Neff writes, “It is... interesting, and ironic, that neither side in the great struggle of 1861-1865 regarded the contest as a civil war. The North regarded it as a law-enforcement enterprise, as the subduing of a rebellion (albeit on a large material scale), rather than as a war. The South regarded it as a war, but not a civil war, since it saw itself as an independent nation....” The Provisional Confederate Congress actually passed a declaration of war on May 6, 1861, but the U.S. Congress never did.

On the legal front, at least, the U.S. had a somewhat schizophrenic approach to the war. President Abraham Lincoln, a skilled lawyer but with no previous experience in the law of war, would use his country’s belligerent rights, those arising under the international law of war, as he saw fit when it was in the national interest to do

so, but would also use its sovereign rights, those arising under the Constitution and the peacetime law of the land, when those best fit the situation. Neff writes, “On the field of battle, [the United States] acted as a belligerent. Off that field, however, it acted as a sovereign... and courts generally supported this stance.”

Neff is very thorough. He explores the prewar legal nature of the United States (was it, as George Washington wrote, “an indissoluble Union of the states... [bound] by a chain which never can be broken,” or, as secessionists argued, a compact which could be dissolved by any state which so desired?); the exercise of emergency powers; guerilla warfare, espionage and the targeting of civilian populations; the occupation of enemy territory, terrorism, reprisals, and the confiscation of private property, either to support one’s own military efforts or to punish foes; slavery and emancipation; and civil liberties, treason, martial law, habeas corpus, prisoners of war and military tribunals. The author notes that Andersonville commandant Henry Wirz was not, as is commonly thought, the only person tried for war crimes during the rebellion; Confederate guerilla Champ Ferguson (convicted and executed) and Brig. Gen. Hugh W. Mercer (tried and acquitted) also were. There is a lot on Neff’s plate, including the many legal issues surrounding the Lincoln assassination conspiracy, but he handles it all clearly and concisely.

The author knows his stuff, and sprinkles interesting factoids throughout: The Empire of Brazil and the Kingdom of Hawaii both declared their neutrality during the Civil War. Robert E. Lee did not approve of Confederate partisan activity, which he said “gives license to many deserters and marauders [who] commit depredations on friend and foe alike.” Congress wrestled with whether or how to seat those elected from occupied, pro-Union areas of Southern states; two Congressmen from Virginia were refused their seats in the U.S. House of Representatives when it was learned that they had won with just 25 and 10 votes, respectively. Thomas “Stonewall” Jackson (at Harper’s Ferry, Va.) and Flag Officer David G. Farragut (at Donaldsville, La.) both ordered the widespread destruction of enemy property before Sherman ever did. In 1867, a man argued that he could not be tried for bigamy since his second wartime wedding had been under the pro-Confederate state government’s laws; the Supreme Court of Virginia said, in essence, “Nice try.”

The Civil War cast a long shadow over American law for many years to come. Claims for compensation for captured or abandoned property were presented decades after the guns fell silent, with the U.S. Supreme Court dealing with one such case as late as 1921. Pensions were paid to soldiers and their next of kin through 1958. And you may be surprised, as I was, to learn how many of the war’s legal questions are still not entirely answered; Neff notes how many of them gained new salience with the terrorist attacks of September 11, 2001 and the beginning of the War on Terror.

In the end, the verdict of the Civil War battlefield was more important than the pronouncement of any lawyer, magistrate or judge, and history has since largely vindicated what Neff calls the Lincoln Administration’s “legally adventurous” approach to the conflict. Despite too many typos and a handful of minor factual errors, *Justice in Blue and Gray* is an interesting and in-depth exploration of the war’s legal issues, and I recommend it.

September 22, 2013 Noon -3 pm(?)

Lincoln at The Grove

Mayfield Village

SOM Center Road

Presentation on Lincoln by William Vodrey

Portrayal of Lincoln by Mel Maurer

The General and Mrs. Garfield

General Ulysses S. Grant

Civil War Music

Civil War Weaponry Display

The Grove is a new venue in Mayfield Village. An open air amphitheater, it opens late this summer. All details have not yet been finalized, but the program should look something like this. The Cleveland CWRT is helping to present the program, along with the Soldiers & Sailors Monument and others. Mark your calendars. More to come over the summer and in the September Charger.

**2013 OHIO CHAUTAUQUA
LAKEWOOD**

Ohio Chautauqua Lakewood is a five-day traveling tent show that presents history in the compelling form of first-person historical characterizations. The incredibly popular theme is When Ohio was the Western Frontier. Audience members will have the opportunity to come face to face with history when they meet naturalist and folk hero Johnny Appleseed, frontier aristocrat Margaret Blennerhassett, Iroquois leader Chief John Logan, Lewis & Clark expedition member York, and the hero of the Battle of Lake Erie Oliver Hazard Perry. There will also be children's workshops, adult programs and music.

For more information go to www.lakewoodhistory.org.