

DRUM & BUGLE

Voice of the Rappahannock
Valley Civil War Round Table



Rappahannock Valley Civil War Round Table Newsletter

August 2007, Volume 4, Issue 8

Topic: "Redoubts at Yorktown"
Speaker: Charles Stayton
When: Monday, August 13, 2007
Times: Social 6:30, Dinner 7:00, Meeting 7:30
Location: Brock's Riverside Grill

Program

Charles Edward Stayton was born in Pikeville Kentucky and moved around quite a bit both do to his father's Military Career. He currently lives in Williamsburg with his wife Anastasia Triantafillos. Mr. Stayton is with the Williamsburg Police Department as a Communications Specialist and Tactical Medic with the Swat Team.

Mr. Stayton has worked for Jamestown Settlement and Jamestown Island as costume military interpretation and as a volunteer Archeologist on the dig at the fort site for over 20 years.

Mr. Stayton will speak to us about the Revolutionary War redoubts at Yorktown and their use in the Civil War.

The Perfect Steel Trap: Harpers Ferry 1859 A Review of the July Program by Greg Mertz

On the evening of October 16, 1859, twenty-two men seized the arsenal at Harpers Ferry in western Virginia. Perhaps no other single event propelled the nation to Civil War than this small-scale action. It became known as "John Brown's Raid."

John Brown was a fervent abolitionist and a religious zealot, who felt it was God's will that he take weapons at the U.S. Arsenal in Harpers Ferry as the first step of a slave insurrection he planned to lead. But despite the operation coming at the end of as many as three years of planning, Brown failed to achieve anything other than the momentary taking of the arsenal. Soon Brown and the remnants of his band were forced to abandon their target and hold up in the engine house. Soon a detachment of U.S. Marines along with U.S. Army Col. Robert E. Lee and Lieut. J.E.B. Stuart arrived at Harpers Ferry to quell the raid. Brown refused to surrender, so on October 18 Stuart led a band of Marines who charged the engine house, battered down the door, killed two raiders, wounded Brown and captured the rest.

Brown and six of his raiders were put on trial for treason. Brown revealed his motives in his testimony. As the newspapers published Brown's views, southerners pondered whether Brown was a fanatic or whether his views were typical of northerners. Brown had attempted a campaign to end slavery by force, and the South deemed it necessary to defend slavery by force as well. Militia units that had been in existence, but were typically more of a social group than a military unit, brushed off drill manuals and polished guns. When war erupted a year and half later, the new Confederacy had a distinct advantage in terms of the degree of preparedness of its citizen soldiers because of the renewed activity of militia units in the wake of John Brown's Raid.

The South also grew more fearful of the anti-slavery rhetoric of the recently formed Republican Party. Southern states warned of secession should the Republican leader be elected in the 1860 presidential election. One cannot help but wonder what the reaction to Lincoln's election would have been if it had not occurred in the wake of such a dramatic episode as John Brown's Raid. Without the spark of John Brown's Raid, would Lincoln's election alone have driven so many states to secede?

Brown and the others put on trial were convicted of treason. Brown was hung in Charlestown on December 2, 1859. He warned that the evils of slavery could not be "purged away; but with Blood." Whether a prophetic martyr or a madman -- John Brown holds a place as one of the most controversial figures in American history.

During our July meeting, Bob O'Connor told us about the writing of his historical novel, "The Perfect Steel Trap Harpers Ferry 1859." As he sought to find a character to use to tell the story of John Brown's capture, trial and execution, he found that no one person witnessed all three of the events, and he needed to merge a couple of different actual people into one of his key fictional characters.

O'Connor pointed out that often overlooked in accounts of the raid is the fact that seven of the raiders escaped. All fled north on what would become the Appalachian Trail. Five of the escapees were not caught, including one of John Brown's sons, Owen.

As O'Connor pondered the events of the trial, he noted the jurisdictional issues that could have been a potential problem. Besides the raid ending in the Commonwealth of Virginia, it entailed the wounding and death of people at the Federal Arsenal -- United States property, and other events of the raid occurred on railroad property owned by the state of Maryland. The courts of Virginia conducted the trial, but O'Connor felt the jurisdictional questions could have caused quite a predicament.

John Brown's Raid is indeed an intriguing and underappreciated moment in the advent of the Civil War.

Scholarship Winners

The essays submitted by our candidates for the 2007 scholarship were truly outstanding. This month we feature *True Liberty and Justice for All*, the winning entry submitted by Katie Davis. Next month we will publish *Vicksburg: Division of the Confederacy* by Stacey Aylor, our runner-up in the competition.

True Liberty and Justice for All: How the Fourteenth Amendment Redefined the Constitution By Katie Davis

After the Civil War, southern states passed Black Codes, which severely limited the freedoms of emancipated slaves. The Fourteenth Amendment was primarily drafted to usurp the authority of the Black Codes and to place limitations on the former Confederacy. However, the ratification of the Fourteenth Amendment in 1868 initiated such a drastic change in the United States it has been referred to as the "Second Constitution." It provided a broad definition of national citizenship and allowed all persons "equal protection of the laws." It was also the first portion of the Constitution to specifically address the states, significantly expanding the reach of the Constitution. The Fourteenth Amendment has continually been cited by the Supreme Court in critical cases which have since broadened the rights, not only of African-Americans, but of all Americans. These rights have continued to hold precedence in the lives of Americans today, guaranteeing them civil liberties such as protection from self-incrimination, the right to obtain an abortion, and protection from discrimination in all aspects of life.

John Bingham, the principal writer of Section One of the Fourteenth Amendment, described Section One as a "necessity for the completion of the work of the Framers." In this regard, describing the Fourteenth Amendment as the "Second Constitution" is appropriate. Section One defined national citizenship, invalidating the Supreme Court's decision in *Dred Scott v. Sandford*, which declared that no African-American, free or slave, could ever be a citizen of the United States. Section One also mandated that a state could not deny its citizens basic civil liberties. Bingham justified these limitations on the power of the states

claiming "No state ever had the right" to deny its citizens "privileges and immunities," due process, or "equal protection of the laws."

Though Sections Two, Three, and Four of the amendment primarily placed conditions on the former Confederate states, Section Two also altered the language of the Constitution to include African-Americans in voting. Additionally, it provided a provision allowing states to be punished for denying citizens the right to vote. Section Five of the Fourteenth Amendment was a short, but critical, portion. It gave Congress the authority to pass legislation to enforce the provisions of the amendment. Most notably, the Voting Rights Act of 1965 was passed by Congress using the power expressed in Section Five. This act enormously improved equality in voting for African-Americans by prohibiting discrimination in voting procedures.

Beginning only five years after its ratification, the Supreme Court attempted to limit the reach of the Fourteenth Amendment. In the *Slaughterhouse Cases of 1873*, the Supreme Court declared the amendment did not protect the privileges and immunities of state citizenship, only of national citizenship. In the *Civil Rights Cases of 1883*, the Supreme Court issued its first decision which upheld the constitutionality of segregation. In this case, the Court ruled the equal protection clause of the Fourteenth Amendment only applied to state action, not to segregation imposed by privately owned businesses. This decision invalidated the Civil Rights Act of 1875, which was intended to ban discrimination in public facilities and transportation. The ruling in *Plessy v. Ferguson* even further enunciated the Court's belief in the constitutionality of segregation. This 1898 case made it lawful for states to impose segregation in public accommodations. The Court claimed segregation did not violate the equal protection clause as long as the segregated facilities were equivalent, initiating the doctrine of "separate but equal."

The Supreme Court initially did not use the Fourteenth Amendment to expand the rights of individuals. Instead, the justices broadened the amendment's interpretation to include the rights of business owners. From the 1880's to the 1930's, the Supreme Court invalidated many federal and state statutes designed to improve working conditions during the Progressive Era. The Court used the due process clause to protect property interests, beginning with the 1905 case *Lochner v. New York*. In this case, the Court ruled that state or federal laws cannot inhibit the right of employers and employees to bargain for hours and wages.

Beginning in 1925, the Supreme Court made an enormous shift in its interpretation of the Fourteenth Amendment. The case *Gitlow v. New York* ushered in an era in which the amendment was used to protect the civil liberties of Americans. In this case, the Supreme Court used the due process clause to rule the First Amendment guarantee to freedom of speech cannot be infringed upon by the states. This was the beginning of the Supreme Court's use of the incorporation doctrine, which allowed for many Bill of Rights provisions to be applied to the states. The due process clause says the states cannot "deprive any person of life, liberty, or property, without due process of law."

Many of the amendments included in the Bill of Rights dealt with the rights of the accused. The most significant Supreme Court case which extended the protection of criminal rights to the state level was *Miranda v. Arizona*. The Court's ruling in this 1966 case set guidelines for questioning by state and local police in order to protect the accused from self incrimination. Due to this ruling, police now have to read the accused their rights from an aptly named "Miranda Card." In the 1961 case *Mapp v. Ohio*, the Court ruled the Fourth Amendment's protection from unreasonable searches and seizures applied to the states. In *Gideon v. Wainwright*, the Supreme Court held that anyone accused of a felony has the right to a lawyer.

The Supreme Court's use of the due process clause also initiated major gains in women's rights. In the controversial case *Roe v. Wade*, the Supreme Court issued a landmark decision which overturned many state and federal laws outlawing or restricting abortion. The basis for this case was the right to privacy, which was a Ninth Amendment right applied to the states in *Griswold v. Connecticut*.

The Supreme Court has used the Fourteenth Amendment's equal protection clause to extend civil rights in America. The most significant extension of equal rights occurred in *Brown v. Board of Education*. In this 1954 decision, the Supreme Court ruled segregation in public schools was "inherently unequal." This decision overturned *Plessy v. Ferguson* and marked the end of legal segregation in the United States. Throughout the 1960's and 1970's, the Supreme Court used the Fourteenth Amendment to combat discrimination against African-Americans. A number of cases declared the limits Southern states had placed on African-American enfranchisement unconstitutional. These rulings, one by one, eliminated unfair voting requirements such as poll taxes and literacy tests.

The equal protection clause has also been utilized to extend rights to women. The language used in the Fourteenth Amendment was significant because instead of applying only to males, it applied to all "persons." In *Reed v. Reed*, the Supreme Court upheld a claim of gender discrimination for the first time. Since this ruling, the Court has struck down many laws discriminating on the basis of gender.

In addition to African-Americans and women, the Supreme Court interpreted the Fourteenth Amendment to apply to practically every group in America. As with women, the language of the Fourteenth Amendment

was critical in applying its provisions to aliens. The amendment specifically applied to all "persons... subject to the jurisdiction" of the United States, prohibiting states from restricting most benefits for legal immigrants. This principle was initially upheld in *Yick Wo v. Hopkins*. The Supreme Court ruled in *Romer v. Evans* that the equal protection clause also applies to homosexuals. In this case, the Court struck down an amendment to the Colorado constitution which prohibited state and local governments from passing laws to protect homosexuals from discrimination in housing and employment. The equal protection clause has even been used to determine the constitutionality of reapportionment cases, as in *Baker v. Carr*. Additionally, the Court has continually upheld the principle of "one person, one vote," as was enunciated by Justice William Douglas in *Gray v. Saunders*. In 1990, Congress stepped in and used Section Five's power of enforcement to defend the rights of Americans with disabilities, in the Americans with Disabilities Act. This act required employers and public facilities to make "reasonable accommodations" for people with disabilities, and prohibits employment discrimination against these Americans.

The ratification of the Fourteenth Amendment ushered in a new era of judicial dominance in American history demonstrating the power of the Constitution to drastically affect the lives of Americans. Despite original misinterpretation of the amendment's principles, once the Supreme Court began utilizing the incorporation doctrine and referencing the powerful phrase, "equal protection of the laws," equality in American has been forever altered. Without the Fourteenth Amendment, segregation and other forms of legalized discrimination might have persisted in the United States. Additionally, civil liberties could have been denied to Americans by the states, despite assurance of these liberties in the Bill of Rights. The Fourteenth Amendment continues to be the principle player in ensuring equal rights for Americans. The versatility of this document guarantees it will continue to define equality in America.

Frank Stringfellow & Will Farley-J.E.B. Stuart's Most Daring Scouts

On July 29 at 2:00 PM at the Graffiti House, Virginia Morton will tell the stories of two Confederate spies who lived behind enemy lines, experienced hair-raising escapades, made narrow escapes and lived with the reality that immediate execution awaited them if they were luckless enough to be captured.

There is no charge, but donations are welcome.

RVCWRT Annual Picnic

The RVCWRT will hold its 2007 picnic on Saturday, September 22nd in Culpeper at "ROSE HILL". This restored antebellum house and outbuildings served as Judson Kilpatrick's headquarters during the 1863-64 winter encampment; just down the road from the headquarters of George Custer.

House Tour at 3 p.m.; Picnic at 5:30 p.m. Make reservations with Bob Jones at '3dognight@bigplanet.com' or call 540-399-1702. Directions will be distributed after September 1st.

The Drum and Bugle is published monthly by the Rappahannock Valley Civil War Roundtable, P.O. Box 7632, Fredericksburg, VA 22404. Dues are \$30 for individuals, \$40 for families, and \$7.50 for students. Membership is open to anyone interested in the study of the Civil War and the preservation of Civil War sites. Greg Martin is President; Joe Bongiovi, Vice President and Program Chair; Bob Jones, Secretary; Barbara Stafford, Treasurer; Dan Augustine, Web Site & Newsletter Editor; John Graham, John Griffiths, Greg Mertz, Tom Quigley, Marc Thompson, and Bob Pfile, Members of the Board of Directors

