

MERRILL'S MARAUDERS

nothing of importance. Several weeks later his troops were ordered to Chattanooga to prepare for the campaign against Atlanta.

[R. U. Johnson and C. C. Buel, eds., *Battles and Leaders of the Civil War.*]

THOMAS ROBSON HAY

MERRILL'S MARAUDERS. In 1943 global priorities sorely limited the assignment of American infantry to Gen. Joseph W. Stilwell's forthcoming operation to retake north Burma and reopen the land route to China (*see* Burma Road and Ledo Road). Stilwell's command was scaled down from a 30,000-man corps to a three-battalion, or 3,000-man, all-volunteer force. Coded GALAHAD, numbered the 5307th Provisional Unit, and nicknamed Merrill's Marauders by the press after the field commander, Gen. Frank D. Merrill, the three battalions were each broken down into two 472-man combat teams (the remainder of the men had noncombat duties), plus pack animals.

Based on the experience of British army officer Brigadier O. C. Wingate, GALAHAD's strength lay in its tactical mobility, in its potential to hit Japanese flanks and rear areas, and in its unique air supply. The Marauders were to spearhead short envelopments while Stilwell's main Chinese columns pushed back the enemy's front.

Entering combat Feb. 24, 1944, GALAHAD made sharp attacks down the Hukawng Valley and by Mar. 29 entered the Mogaung Valley, gateway to the Irrawaddy River and its rail system. Stilwell's goal was the river town of Myitkyina from which a fair road led to the Burma Road junction at Wanting, China. Reduced to 1,400 men, the Marauders struck directly at Myitkyina through a 6,100-foot pass in the Kumon Range, surprising the 700-man Japanese garrison at Myitkyina's strategic airfield on May 17. Quickly the Japanese brought 4,000 men to Myitkyina, and a siege began that ended Aug. 3. By June 4 GALAHAD was spent: 123 were dead, 293 wounded, 8 missing, 1,970 ill. Grievances that had mounted during a five-month, 500-mile campaign broke out dramatically at Myitkyina. A Distinguished Unit Citation and Stilwell's praise for taking Myitkyina were only appreciated when he explained how they had given heart to the Chinese soldiers to fight on to their homeland.

[Charles N. Hunter, *GALAHAD: U.S. Army, Merrill's Marauders.*]

CHARLES F. ROMANUS

MERRIMAC, SINKING OF (June 3, 1898). When the Cuban squadron of Pascual Cervera y Topete was blockaded by Adm. William T. Sampson at Santiago in the Spanish-American War, Assistant Naval Constructor Richmond Pearson Hobson with seven men volunteered to sink the collier *Merrimac* across the narrow entrance, blocking Cervera's escape. Under heavy enemy fire the *Merrimac* was anchored in position about 2 A.M., but its steering gear was injured, only two of its sinking charges exploded, and as finally sunk it did not lie athwart the channel or close it effectively. Surviving almost miraculously after their hazardous exploit, Hobson and his crew were taken prisoners and courteously treated until their exchange on July 7.

[R. P. Hobson, *The Sinking of the Merrimac.*]

ALLAN WESTCOTT

MERRIMACK. *See Monitor and Merrimack, Battle of.*

MERRYMAN, EX PARTE, Federal Cases No. 9487 (1861), involved President Abraham Lincoln's exercise of extraordinary war powers, specifically his right to suspend habeas corpus. John Merryman, a Baltimore County secessionist, was imprisoned in Fort McHenry in Baltimore harbor by military order on May 25, 1861. The commanding officer refused to comply with a writ of habeas corpus issued by Chief Justice Roger B. Taney, on the grounds that he had been authorized by the president to suspend the writ. Taney wrote an opinion, widely denounced in the North, that the writ could be suspended constitutionally only by Congress, not by the president. Lincoln did not alter his policy (*see Milligan, Ex Parte*).

[C. B. Swisher, *Roger B. Taney*; Charles Warren, *The Supreme Court in United States History.*]

RANSOM E. NOBLE, JR.

MERRY MOUNT, or Mount Wollaston, in Quincy, Mass., was the site of an early conflict between the public interest and commercial greed. About 1625 Thomas Morton established an Indian trading post there, and later added a Maypole, around which he and his men sported with the "lasses in beaver coats." Of the dozen settlements then scattered along the New England coast only that at Plymouth would have objected to the customary May Day promiscuity that Morton, according to his own story, gleefully introduced, and Plymouth was too busy trying to get out

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ARREST, ARBITRARY, DURING THE CIVIL WAR

tence of Maine congressmen, the federal government voted a force of 50,000 men and \$10 million in the event of war. To prevent a clash Gen. Winfield Scott was dispatched to negotiate a truce with the lieutenant governor of New Brunswick. This he did, and Great Britain, convinced of the seriousness of the situation, agreed to a boundary commission, whose findings were incorporated in the Webster-Ashburton Treaty in 1842.

[H. S. Burrage, *Maine and the Northeastern Boundary Controversy*.]

ELIZABETH RING

ARPENT, an old French unit of land measure, both linear and superficial, now standardized in Louisiana at 192 feet, or a square of that dimension (equal to approximately five-sixths of an acre). French colonial land grants were described as fronting a given number of arpents on a river or bayou by forty arpents in depth and containing a certain number of superficial arpents.

WALTER PRICHARD

ARREST. The Fourth Amendment to the U.S. Constitution—applicable to state and city, as well as federal, law enforcement officers through the due process clause of the Fourteenth Amendment—guarantees “the right of the people to be secure in their persons . . . against unreasonable . . . seizures,” and provides further that this right “shall not be violated . . . but upon probable cause.” The Fourth Amendment does not use the term “arrest,” but it is now established that an illegal arrest is an illegal “seizure” within the meaning of the amendment. Thus, although unfortunately they commonly occur, arrests based on mere suspicion or common rumor or otherwise lacking “probable cause” are unconstitutional at the local, as well as at the federal, level.

The Fourth Amendment provides that “no Warrants shall issue, but upon probable cause.” Although the rule is otherwise with respect to searches, arrests for felonies may be made without warrants, even though it is practicable to obtain one. (Most states permit warrantless arrests for misdemeanors only if committed in the officer’s presence.) But the Fourth Amendment also prohibits “unreasonable searches and seizures” generally; and because requirements in cases in which the police proceed without a warrant surely cannot be less stringent than when a warrant is obtained, “probable cause” or “reasonable grounds” is also required in such circumstances.

Probable cause exists where the information within the officer’s knowledge is sufficient to warrant a reasonable man to believe that a crime has, or is being, committed.

Although all arrests are seizures within the meaning of the Fourth Amendment, some seizures may not be arrests. In the 1968 “stop-and-frisk” cases (392 U.S. 1), the U.S. Supreme Court distinguished between “technical arrests” and less intrusive “seizures” (that is, brief detentions on the streets or “stops”) and implied that the police may constitutionally “stop” or temporarily detain persons on the basis of facts and circumstances that would not support a full-blown arrest.

In the federal courts and in most state courts it is no defense to a prosecution that the defendant was illegally arrested or brought within the jurisdiction of the court by reason of a forcible abduction. “There is nothing in the Constitution that requires a court to permit a guilty person rightfully convicted to escape justice because he was brought to trial against his will” (342 U.S. 519, 522 [1952]). But whether an arrest is valid is nonetheless frequently a matter of practical importance. The police are authorized to conduct a limited search without warrant incident to a lawful arrest, and thus, the admissibility of evidence acquired in this way depends upon the validity of the arrest.

[William O. Douglas, “Vagrancy and Arrest on Suspicion,” *Yale Law Journal*, vol. 70; Caleb Foote, “Safeguards in the Law of Arrest,” *Northwestern University Law Review*, vol. 52; Wayne LaFave, *Arrest: The Decision to Take a Suspect Into Custody*, and “‘Street Encounters’ and the Constitution,” *Michigan Law Review*, vol. 67.]

YALE KAMISAR

ARREST, ARBITRARY, DURING THE CIVIL WAR. Freedom from arbitrary arrest, guaranteed in the writ of habeas corpus, has become synonymous in Anglo-Saxon tradition with civil liberty. The right to restrict this freedom nevertheless is recognized in England as a parliamentary function and in the United States as a constitutional exercise of power in time of “rebellion or invasion.” Until 1861 this federal right had never been exercised, but the Civil War brought widespread restrictions of civil liberty. In order to cope with antiwar activities (*see* Copperheads), President Abraham Lincoln issued several proclamations by which the privilege of the writ of habeas corpus was suspended, first within limited areas and later (Sept. 24, 1862) throughout the entire nation.

The president’s control of arbitrary arrest was frequently questioned, especially by Chief Justice

ARROWSMITH'S MAP

Roger B. Taney, who held (*ex parte Merryman*) that the legislative branch rather than the executive had this constitutional authority. Lincoln ably defended himself against dictatorship charges in various open letters, however (*see* Birchard Letter; Coming Letter). Executive control was maintained and extended, even after Congress required (Mar. 3, 1863) that political prisoners either be released or subjected to regular judicial procedure. The Department of State and later the War Department administered arrests. Passports were required, a secret service was organized, and Union officers and local police cooperated in apprehending suspects. Political prisoners were detained without hearing and usually released after brief imprisonment. Trial by military commissions, such as in the Vallandigham and Milligan cases, was exceptional. Although the authority for such commissions was not questioned by the Supreme Court during the war, their use outside the war zone for the trial of civilians was declared unconstitutional after the war.

The number of arrests for antiwar activities is not known exactly. One official list with 13,535 names is incomplete, while on the other hand Alexander Johnston's guess of 38,000 is exaggerated. No authoritative total has ever been reached. One famous series of arrests included the mayor and a judge of Baltimore and certain members of the Maryland legislature. Equally important, however, was the imprisonment of a number of northern editors and several public men including Congressman Henry May, former Gov. Charles S. Morehead of Kentucky, the mayor of Washington, and two diplomats (C. J. Faulkner and G. W. Jones), appointed during James Buchanan's administration, returning from abroad.

The Confederacy likewise made summary arrests to suppress disloyalty. Success was small, not only because political prisoners became popular martyrs, but because Confederate policy met the additional resistance of states'-rights opposition in numerous localities.

[F. L. Owsley, *State Rights in the Confederacy*; J. G. Randall, *Constitutional Problems Under Lincoln*.]

MARTIN P. CLAUSSEN

ARROWSMITH'S MAP. *A Map Exhibiting All the New Discoveries in the Interior Part of North America* was published in London, Jan. 1, 1795, by Aaron Arrowsmith, "Hydrographer to His Majesty." A large-scale map on a globular projection, it was printed on six sheets, measuring when joined 48½ by 57 inches. From notes furnished by members of the

Hudson's Bay Company, numerous additions and corrections were made on the basic map. More than seventeen editions were published between 1795 and 1850, first by the author and later by his two sons, which attest the accuracy and importance of the map.

[Charles O. Paullin, *Atlas of the Historical Geography of the United States*.]

LLOYD A. BROWN

ARSENALS. An arsenal is an establishment for the manufacture, repair, receipt, storage, and issuance of ordnance. Historically, American arms manufacture favored governmental control rather than private production, as was the European practice, to insure the quality and uniformity of arms production. The Springfield, Mass., and Harpers Ferry, W. Va., armories were established in 1794 and 1796 respectively, to release the Republic from dependence upon foreign arms manufacture. With the organization of the army's Ordnance Department on May 14, 1812, arsenals came under its direction. By 1816 there were five federal arsenals: small arms were produced at Springfield and Harpers Ferry; artillery equipment and ammunition at Watervliet, N. Y.; small arms and gun carriages at Watertown, Mass.; and ammunition at Frankford, Pa. Arsenals at Rock Island, Ill., and Picatinny, N. J., were added at mid-century, whereas the Harpers Ferry arsenal was destroyed during the Civil War.

Up to and including World War II, American arsenal munition production was never enough to meet the wartime needs of the army; consequently, the expanded production needed in wartime was provided by the private sector. The arsenals were repositories of highly complex ordnance skills in peacetime and watchdogs of the expanding munitions industry in wartime. They provided weapons design and even plant design while monitoring production to ensure quality and interchangeability. Since the Korean War, arsenals no longer have the broad functions of the past; they contribute to only a small portion of the army's total ordnance requirements.

[C. M. Green, H. C. Thomson, and P. C. Roots, *The Ordnance Department: Planning Munitions for War*; J. A. Huston, *The Sinews of War: Army Logistics, 1775-1953*.]

DON E. McLEOD

ART. *See* **Painting.**

d'ARTAGUETTE'S DEFEAT (1736). The governor of Louisiana, Jean Baptiste Le Moyne, Sieur de Bien-

Confederacy achieved recognition of belligerency, as in the British queen's proclamation of neutrality (May 13, 1861), but never achieved full standing in the sense of a recognition of independence by any foreign power. Nor did any foreign nation intervene in the struggle, although the British government seemed at times to be seriously contemplating it and the government of Napoleon III did offer mediation which was indignantly rejected by the United States (February–March 1863).

Before Lincoln's first Congress met in July 1861, the president had taken those measures that gave to Union war policy its controlling character. Besides proclaiming an insurrection, declaring a blockade, and summoning the militia (definite war measures), he had suspended the habeas corpus privilege, expanded the regular army, directed emergency expenditures, and in general had assumed executive functions beyond existing law. A tardy ratification of his acts was passed by Congress on Aug. 6, 1861, and in 1863 these strongly contested executive measures were given sanction by the Supreme Court in a five-to-four decision sustained chiefly by Lincoln's own judicial appointees. In general, Lincoln's method of meeting the emergency and suppressing disloyal tendencies was not to proceed within the pattern of regular statutes, but to grasp arbitrary power by executive orders or proclamations, as in the Emancipation Proclamation (in which the president exercised a power which he insisted Congress did not have even in time of war), and his extensive program of arbitrary arrests, wherein thousands of citizens were thrust into prison on suspicion of disloyal or dangerous activity. These arrests were quite irregular. Prisoners were given no trial (usually not even military trial); they were deprived of civil guarantees and were subjected to no regular accusations under the law. Such measures led to severe and widespread opposition to the Lincoln administration. In their denial of the habeas corpus privilege these measures were denounced as unconstitutional in a hearing before Chief Justice Roger B. Taney (*Ex parte Merryman*, May 1861), but in the Vallandigham case (1864) the Supreme Court, to which the Merryman case had not been brought, declined to interpose any obstacle to arbitrary arrest, thus in a negative way sustaining the president. (In 1866, however, in the Milligan case, the Court did overrule a wartime military commission.) Yet it cannot be said that Lincoln became a "dictator" in the 20th-century sense of the word. He allowed freedom of speech and of the press, contrary examples being

exceptional, not typical. He tolerated widespread newspaper criticism of himself and of the government, interposed no party uniformity, permitted free assembly, avoided partisan violence, recognized opponents in appointments, and above all submitted himself, even during war, to the test of popular election. This testing resulted in a marked Republican loss in the congressional election of 1862, while in 1864, although the situation looked very dark for the Republicans in August, the election in November brought in a considerable electoral majority.

In the military sense both sides were unprepared; had any conceivable policy of prewar preparedness been promoted (under the southern secretaries of war of the 1850's) it could hardly have given the Union side that advantage which military writers often assume. The first Battle of Bull Run (July 21) was the only large-scale engagement in 1861. Although a Union defeat, it was, like most of the battles, an indecisive struggle. Except during the generalship of Union officers George B. McClellan, George C. Meade, and Ulysses S. Grant, the southerners had the undoubted advantage of military leadership on the main eastern front; Robert E. Lee's notable, though indecisive, victories of second Bull Run, Fredericksburg, and Chancellorsville were won against John Pope, A. E. Burnside, and Joseph Hooker. At Antietam, however, McClellan stopped Lee's northern invasion of September 1862, while the ambitious Confederate offensive of 1863 was checked at Gettysburg. In the West most of the operations were favorable to the Union side. This was especially true of the "river war" (resulting in the capture of Columbus, forts Henry and Donelson, Nashville, Corinth, and Memphis); the Union half-victory of Shiloh; and more especially the important Union victories of 1863 at Vicksburg and in the Chattanooga area. Later campaigns involved Confederate Gen. J. E. Johnston's unsuccessful operations against William Tecumseh Sherman in upper Georgia, Sherman's capture of Atlanta and his famous raid through Georgia and the Carolinas, Union Gen. Philip H. Sheridan's devastating operations in the Valley of Virginia, the Grant-Meade operations against Lee in Virginia (involving the costly battles of the Wilderness, Spotsylvania, and Cold Harbor), the J. B. Hood–G. H. Thomas campaign in Tennessee, and final operations in the Petersburg and Appomattox areas, which culminated in the fall of Richmond and the close of the war. In the naval aspects Union superiority was impressively shown in the blockade of southern ports, which were

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