

Ex parte Milligan at 150:

**The Constitution & Military Commissions in
American Wars on Terror**

**Friday September 23
&
Saturday September 24**

**Marriott Hotel & Conference Center
201 Broadway Ave.
Normal, IL 61761**

Thank You to our Sponsors:

The David Davis Mansion Foundation

The Abraham Lincoln Association

The Illinois State University Foundation

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The Illinois State University History Department

The We the People Program

The Illinois Center for Civic Education

The Constitutional Rights Foundation Chicago

Thursday September 22

6:00-8:00 p.m.: Open House at the residence of Supreme Court Justice David Davis

(www.daviddavismansion.org)

David Davis Mansion
1000 Monroe Drive
Bloomington, IL 61701

Friday September 23

7:30a.m-6:00p.m: Registration Open (Pre-Function Area)

8:00-9:00: Coffee Provided

8:30-11:15: Panel Presentation (Redbird C)

Chair: Brooks Simpson

Douglas William Lind, “The Myth of Treason in Southern Illinois”

Director of the Law Library and Professor of Law
Southern Illinois University School of Law

A. James Fuller, “Was there a civil war in Civil War Indiana?: Rebellion on the Northern Home Front and the Context of the *Milligan* Case”

Professor of History
University of Indianapolis

Stephen Towne: “Civil or Military Courts? The Decision to Use Military Commissions to Try the Indiana Conspirators in 1864”

Associate University Archivist
Indiana University-Purdue University Indianapolis

10:00 Coffee Break

Dan Rigney, “A White Man’s Republic, Copperhead Constitutionalism and the origins of the Davis opinion in *ex parte Milligan.*”

Graduate Student
Illinois State University

Christopher Phillips, “Southern Cross, North Star: Race, Region, and Irreconciliation in the Post-Civil War West.”

Professor of History
University of Cincinnati

11:30-12:30: Illinois Center for Civic Education "We the People" (Redbird C)

The Center for Civic Education's "We the People" Program will demonstrate its congressional hearing High School forensic competition. This is a program in which High School "Constitution Teams" demonstrate their ability to argue and explain important constitutional principles and decisions. Students from Maine South will present and defend their answers to questions about *ex parte Milligan* put to them by our distinguished conference speakers Michael Les Benedict, Bob Lemming, and Jonathan Hafetz. Afterwards, Bob Lemming, of the Center for Civic Education will explain the We the People program and take questions

12:30-1:30: Break

See (<http://milliganconference.illinoisstate.edu/location/>) for a map and list of restaurants in Uptown Normal

1:30-3:00 Panel Presentation (Redbird C)

Chair: Stewart Winger

Jennifer Weber: "Lincoln and the Power of the Presidency"

Associate Professor
University of Kansas

Jonathan White: "Ex parte Milligan as a Precedent for Supreme Court Decision-Making"

Associate Professor of American Studies
Christopher Newport University

Itai Sneh: "Civic Liberties under Attack Since 9/11: Misconduct under the Bush Administration"

Professor of Criminal Justice
John Jay College

3:15-4:45: Plenary: Lincoln, Civil Liberties, and the *Milligan* Decision (Redbird C)

Jennifer Weber, Christopher Phillips, A James Fuller, Stephen Towne

Chair: Michael Les Benedict

Initial Question: What should Historians conclude about the civil liberties record of the Lincoln administration, about Davis's response in *Milligan*, or about Chase's concurrence?

4:45-6:30: Dinner Break

6:30–7:30: Keynote Speaker: Michael Les Benedict (Redbird C)

“EX PARTE MILLIGAN IN AMERICAN HISTORY”

Ex parte Milligan (1867) is one of the great cases of American constitutional history, but its importance is as much for constitutional politics as constitutional law. Its principle that the Constitution protects civil liberty alike in war and in peace has significantly influenced American constitutional politics, providing important support for civil libertarians. Its legal precedent inhibiting the establishment of military commissions has significantly affected governmental policy, with possibly profound effects. The decision arose in the context of debate over civil liberties during the Civil War. It had profound implications for Reconstruction after the war and for the protection of constitutional rights after the southern states were restored to the Union. From that perspective, *ex parte Milligan* was as much a decision about federalism as it was about civil liberty. It placed important restrictions on the ability of the United States to project power for the protection of American citizens within the United States.

Introduced by Roger Bridges

Roger Bridges is executive director emeritus of the Rutherford B. Hayes Presidential Library and Museums, previous to that he was director of the Illinois State Historical Library, and founding editor of the Lincoln Legal Papers. He served more than fifteen years as the Secretary/Treasurer of the Society for Historians of the Gilded Age and Progressive Era, and a past president of the Abraham Lincoln Association. He has taught at Universities in South Dakota, and Illinois, including Illinois State University.

7:45-8:30: Reception with Keynote (Redbird C)

Cash bar and hors d'oeuvres provided

Saturday September 24

7:30a.m-1:00p.m: Registration Open (Pre-Function Area)

8:00-9:00: Coffee Provided (Pre-Function Area)

9:00-11:45: Panel Presentation (Redbird AB)

Chair: Stewart Winger

Luci Petlack: "A Dilemma of Civil Liberties: Blacks under Union Military Control, 1861-1866."

PhD History, University of California, Davis (2013)

John Moreland: "David Davis Jurist and Civil Libertarian"

Chief of Staff

Cox Law Firm, Monticello, IL

Roger Billings: "The Chase Opinion in Milligan: Dissent or Concurrence?"

Professor of Law, Emeritus,

The Salmon P. Chase College of Law, Northern Kentucky University

David Campmier: "Robert Cobb Kennedy, the Just War Tradition and the Lieber Code in Military Tribunals"

PhD Candidate

CUNY Graduate Center

9:00-12:00: Civil War Study Group (Redbird G)

12:00-1:15: Lunch with Keynote: Johnathan Hafetz (Redbird AB)

"*Ex Parte Milligan* in the War on Terrorism: Testing the Constitutional Bedrock of a Criminal Trial."

Summary: The Supreme Court's decision in *ex parte Milligan* has long been recognized as a landmark ruling for solidifying the constitutional sanctity of the criminal trial, no matter how grave the offense, thereby securing both the rights of individuals and the supremacy of civilian authority over the military. This foundational ruling has, however, come under persistent attack since 9/11, as successive administrations have sought both to detain individuals suspected of terrorist acts or associations indefinitely without trial and to prosecute them in military commissions. These military detentions and prosecutions pose significant challenges to *Milligan's* legacy, while also illustrating *Milligan's* continued importance in the constitutional fabric.

12:00-1:30 Civil War Study Group Book Discussion (Redbird G)

1:30-3:00 Plenary: *Milligan* and GITMO (Redbird AB)

Michael Les Benedict, Brooks Simpson, Jonathan Hafetz, Itai Sneh

Chair: Meghan Leonard

Initial Question: What Place, if any, does the Davis opinion in *Milligan* Decision (or the alternatives set out by Chief Justice Chase or the Lincoln Administration) have in our current war on terror and its jurisprudence.

Continuing Legal Education Credit:

Friday, September 23, 2016 – 6.5 Hours General CLE Credit Anticipated

8:30 – 11:15 Panel Presentation – 2.5 Hours
1:30 – 3:00 Panel Presentation 1.5 Hours
3:15 – 4:45 Plenary – Lincoln, Civil Liberties & the *Milligan* Decision – 1.5 Hours
6:30 – 7:30 Keynote Speaker: Michael Les Benedict – 1.0 Hour

Saturday, September 24, 2016 – 5 Hours Professionalism CLE Credit Anticipated

9:00-11:45 Panel Presentation – 2.5 Hours
12:00-1:15 Lunch with Keynote– 1 Hour
1:30-3:00 Plenary: *Milligan* and GITMO – 1.5 Hours

CLE participants will need to sign in at the beginning and end of each session.

Conference Reviewer:

U.S. Studies Online, the postgraduate and early-career researcher network, website and journal of the British Association for American Studies (www.baas.ac.uk/usso) is looking for a reviewer for the conference. They would like a short, 700-1200 word, review written about your conference. Potential reviewers can contact Rachel Alexander at usso@baas.ac.uk.

Local Information:

A map of Uptown Normal can be found here:

http://milliganconference.illinoisstate.edu/downloads/Uptown_Map.pdf

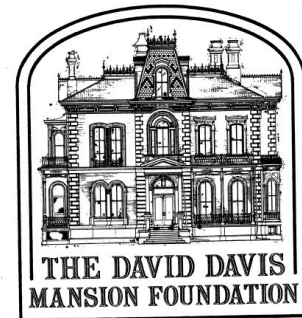
Questions:

All the information about the conference can be found on our website:

<http://milliganconference.illinoisstate.edu/>

Questions can be directed to Stewart Winger (swinger@ilstu.edu) or Meghan Leonard (mleonar@ilstu.edu).

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