

almost alone; Indiana and other states need similar treatment. Since ministers and professors were most frequently leaders, the roles of church and college need to be assessed. The free lance, accepted because of the talent shortage, deserves attention, along with literary, historical, agricultural, and village improvement societies. The definition of a lyceum, accompanying the delightful frontispiece, includes debates, drama, "and the like," but the author excludes or neglects these aspects. Finally, if the lyceum worked itself out of one job with the success of school reform, if it aided essayists and augmented libraries, did it realize any of its other pious resolutions? The propaganda nature of the handy sources makes firm conclusions difficult. How many scientists, like Maria Mitchell, received some of their basic training in a lyceum? What effect did the use of visual aids (e.g., Silliman's eighty square feet of paintings to illustrate a Lowell lecture) have on the arts? The Associated Western Literary Society, incorporated in 1855, deserves more attention as the first successful booking agency.

But an author is entitled to his own emphases. For Carl Bode's substantial contribution to American studies, I would double-star his well-told story for your library.

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Lincoln's Supreme Court. By David M. Silver. Volume 38, *Illinois Studies in the Social Sciences*. (Urbana: University of Illinois Press, 1956. Pp. ix, 272. Frontispiece, appendix, bibliography, and index. Cloth, \$4.00; paper-bound, \$3.00.)

During his presidency Abraham Lincoln appointed five Supreme Court justices. These five, Noah H. Swayne, Samuel F. Miller, David Davis, Stephen J. Field, and Salmon P. Chase, constituted one-half of the Court's membership in 1865, above average in comparison with the administrations of other chief executives. In this book Professor Silver ably describes the political circumstances that influenced Lincoln in making his choices. The reorganization of the circuit system by the act of Congress of July 15, 1862, caused the President to consider the geographical factor, and thus three appointees (Swayne, Miller, and Davis) were midwesterners, while a fourth, Chief Justice Chase, also came from that

section but was chosen for different reasons. Lincoln did not search for men with judicial experience, and, except for Field, the new members had not served on an important bench. Davis' background as an Illinois circuit judge had nothing to do with his being selected. Nor was previous office holding deemed essential, for only Chase had any significant qualifications in this respect. The primary motive, Professor Silver concludes, was to find men with "sound views toward the great political issues of the Civil War" (p. 57).

In the opinion of many Republicans, the justices who had been appointed by Lincoln's predecessors did not have sound views. Actions of the President early in the war posed serious constitutional questions that might have been decided by Chief Justice Roger B. Taney and his brethren in such a way as to handicap the Union effort. Lincoln's declaration of a blockade of Confederate ports, challenged in the Prize Cases, was approved by the narrowest of margins (five to four), and this only after nearly two years' delay in hearing and deciding those cases. The three justices appointed by Lincoln before March, 1863, were in the majority, a fact which explains Attorney General Edward Bates's hesitancy to risk an adverse judgment prior to that time. The suspension of the privilege of habeas corpus by the executive without legislative authority was attacked by Taney in *Ex parte Merryman* (1861). Subsequent extension of the policy of arbitrary arrest and resort to martial law might well have been struck down. Other measures, the Emancipation Proclamation, the income tax, conscription, and issuance of legal tender notes, were imperiled by a Court thought to be unfriendly to the administration. Radicals, such as John P. Hale, would have drastically remodeled that judicial body, but only the mild reform of adding a tenth justice, Field, was enacted by Congress. The author labels this as "packing" the Court, which might have been the objective, although he does not present hard evidence to prove it.

As it turned out, most of these questions were either determined favorably to the government or, more often, evaded by the judiciary during the progress of the war. It was not until 1866 that the Supreme Court in *Ex parte Milligan* ruled against trial of civilians by military commissions in areas where the regular courts were open. Professor Silver says that this "absolved" Taney. Here and at other points, however, this volume does not clearly distinguish be-

tween arbitrary arrest (suspension of the privilege of habeas corpus) and military trial. The former was approved by Justice Davis in the majority opinion, and the latter was disapproved. Of course the Habeas Corpus Law of March 3, 1863, authorizing Lincoln's steps relative to arbitrary arrest, possibly removed some of Taney's objections in the Merryman case, since Congress had now acted. Nevertheless, something more than the Milligan decision was needed to "absolve" Taney.

Lincoln's Supreme Court is an excellent study of the relationship of Civil War politics and the Supreme Court. Valuable sources, particularly the Lincoln Papers, are utilized to great advantage. The general reader, as well as the historian, will find it interesting and reliable. The constitutional historian will not find an exhaustive analysis of the legal aspects of many problems, but the author did not intend to write that sort of book.

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Lincoln's Fifth Wheel: The Political History of the United States Sanitary Commission. By William Quentin Maxwell. (New York: Longmans, Green and Company, 1956. Pp. xii, 372. Biographical notes, list of sources, bibliography, and index. \$5.00.)

Lincoln's Fifth Wheel is still another in the avalanche of books on the Civil War period now rolling off the press. These books have a ready market; for many this is their main reason to be, and one immediately raises the question as to the justification for this volume. The answer is that the book rests on a heretofore unused reservoir of material, and it covers a well-known but badly neglected feature of the war.

The author has plowed through the great mass of manuscripts now available on the period and found every bit of material that applies to his subject. He takes great satisfaction in this, not that it has netted much except the assurance that further pertinent evidence does not exist.

The writer, perhaps unwittingly, has added his bit to the current process of rejuvenating the New England tradition. He has helped line up the anti-slavery crusaders and their coadjutors for a second century's vogue. His great reliance