

# BATTLEFIELD UPDATE

Newsletter of the American Battlefield Protection Program

Summer 2004, No. 82

## Battlefield Summer

By Kate Shiflet

As I ready to leave the American Battlefield Protection Program, or ABPP, I find myself thinking back to my first week at ABPP's Eye Street offices. At that time, I was just getting used to everything - the bleary-eyed Metro commute each morning, the frenzied D.C. streets, and the extra-tight security at 1201 Eye. The first day's tasks helped acquaint me with the office, the people, the program, and the machinery. I certainly felt new then, and realize how much more comfortable I've become over twelve weeks in my shared intern cubicle, so much so that it seems strange to be leaving this place. Looking back, I will certainly remember the many tasks, research topics, and people of this program.

Much of my work this summer involved research and organization. I helped review grant product drafts and learned about preservation plans, archeology reports, National Register nominations, historical context statements, and interpretive plans. This experience assisted in my early draft of "Guidelines for Writing ABPP Reports," a publication offering grammar, style,

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1201 Eye Street, NW, Washington, DC, houses ABPP's offices.  
NPS Photo.

## Economic Study Shows Protected Battlefields Yield Jobs, Revenue

By Sarah Richards

The Civil War Preservation Trust (CWPT) has exciting news about the economic benefits of preserving Civil War battlefields. In the spring of 2003, CWPT asked the consulting firm of Davidson Peterson Associates to conduct a study to determine who is visiting Civil War battlefields and the impact those visitors have on the economies of the surrounding regions. For the initial phase of the study, seven sites across the Southeast were chosen, representing battlefields that have been preserved and managed by a range of federal, State, and local groups.

Visitors at each site were asked to complete a short survey indicating their length of stay, the amount of money they were spending, and their age, income, and education levels. Visitors were also asked what interpretive tools they were using at the battlefield. Davidson Peterson then used economic models to extrapolate the larger economic benefits to the community. (The report and methodology are available online at [www.civilwar.org](http://www.civilwar.org).)

The study shows that preserving a Civil War battlefield in a community brings substantial economic benefits to the area. Battlefield land, once preserved and interpreted, attracts tourists. The tourists pay for services in the community, which means more local jobs, higher income for residents, and increases in local and state government income from taxes. For example, in 2003 visitors to the Shiloh National Military Park in southwest Tennessee spent more than \$13 million in the local area. This money helped generate:

- \$5.6 million in resident income,
- \$1.3 million in local government revenue, and
- \$1.8 million in State government revenue.

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# CAPITAL WATCH

**Fort Bayard National Historic Landmark Act.** Signed by President Bush on March 19, 2004 (Public Law 108-209), this legislation designates Fort Bayard, in southwest New Mexico, a National Historic Landmark. From 1866 to 1899 Fort Bayard served as a military post for Buffalo Soldiers who fought in the Apache wars. It also served as a military hospital. Landmark designation allows the Secretary of the Interior to enter into cooperative agreements to provide assistance to public and private entities to protect the fort's remaining historic and archeological resources. Legislation designating National Historic Landmarks is unusual. Federal regulations (36 CFR 65) direct the National Park Service, the National Park System Advisory Board, and the Director of the National Park Service to review landmark nominations and provide recommendations to the Secretary of the Interior. The Secretary designates most National Historic Landmarks.

**225th Anniversary of the American Revolution Commemoration Act.** This legislation identifies the American Revolution as an event of "enduring importance...to the lives of citizens of the United States." The bill (S. 1108) proposes "to authorize the National Park Service to coordinate... Federal and non-Federal activities to commemorate, honor, and interpret the history of the American Revolution...." It reinforces the National Park Service's "Lighting Freedom's Flame" initiative, underway since 2000. Introduced by Senator Hillary Rodham Clinton of New York and cosponsored by Senators from five states, the bill passed the Senate in April 2004. The House is considering the bill.

**"Bleeding Kansas" and the Enduring Struggle for Freedom National Heritage Area Act.** On March 4, 2004, Representative Jim R. Ryun and his colleagues of the Kansas congressional delegation introduced legislation (H.R. 3909) that seeks to designate counties in eastern Kansas and western Missouri as a National Heritage Area. A collection of historic sites would feature the story of the region's political and cultural struggles over slavery prior to the Civil War. Proponents of the bill hope that, if enacted, the legislation could draw as much as \$10 million in Federal funds to help preserve the area's history and promote tourism. The House Committee on Resources is considering the bill.

**Battle of Camden Study Act.** Introduced in the House by Representative John M. Spratt Jr. of South Carolina on September 10, 2003, H.R.3074 would authorize the Secretary of the Interior to study the suitability and feasibility of designating the site of the 1780 Battle of Camden in South Carolina as a unit of the National Park Service. At Camden, a British army led by Lt. Gen. Lord Charles Cornwallis routed an American army twice its size under the command of Maj. Gen. Horatio Gates. The battle was the climactic event in a series of disasters for the Continental Army and led to Maj. Gen. Nathanael Greene's appointment to command the army's Southern Department. H.R. 3074 was referred to the House Committee on Resources.

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*For information about the current status of these bills, visit the Library of Congress' website THOMAS at <http://thomas.loc.gov/>.*

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*continued from page 1 Economic Study*

At New Market Battlefield in the Shenandoah Valley of Virginia, visitors spent nearly \$1.7 million in the local area. This money helped generate:

- \$689,000 in resident income,
- \$122,000 in local government revenue, and
- \$144,000 in State government revenue.

Surveying for Phase 2 of the study will continue in 2004. For more information on the study, or if your site is interested in participating, please contact Sarah Richards at [srichards@civilwar.org](mailto:srichards@civilwar.org) or (202) 367-1961, x211.

*Sarah Richards is the Education Coordinator and Heritage Tourism Director for the Civil War Preservation Trust, Washington, DC.*

# Hints for the Non-Lawyer

By John Renaud

*This article is the first in a series about legal issues and preservation.*

**W**hether or not you have legal training, if you are involved with battlefield preservation, you will have contact with laws and lawyers. A few basic concepts will help your general understanding of laws, your communication with lawyers, and with a little luck, help increase the chances of protecting your battlefield.

## **What Law Are You Talking About?**

That's the question you should ask when you hear someone say, "It's the law," or "The law requires....," etc. It makes sense to ask what law the speaker is talking about. The word "law" can refer to any or all of a wide range of meanings. In a battlefield preservation context, "law" refers to all government-created authorities, mandates, procedures, and restrictions that relate to that battlefield.

Most important is the law that created the government and describes the government's authority. Generally, Federal law takes precedence over State law which takes precedence over local law. The Constitution of the United States is more authoritative than your State's constitution, which is more authoritative than the law that created your local government. Local law must be consistent with your State's constitution, which in turn must be consistent with the Constitution of the United States. For any part of the battlefield on Federal land, Federal law applies. For any part on State government land, Federal and State law applies. For any part on local government or private land, Federal, State, and local law applies.

You can categorize law by asking two questions: 1) what part of the government made the law and 2) what subject matter does the law address. In the United States, each of the three branches of government creates

and/or interprets law. Each level of government creates law in parallel fashion to the others. The legislative branch of government, through bills and ordinances and (usually) after approval by the chief executive, creates "statutory law." At the Federal level, statutory law related to battlefields includes the National Historic Preservation Act, as amended, the Archaeological Resources Protection Act, as amended, and the American Battlefield Protection Act, as amended. Statutory law usually provides general policy direction and organizational framework for the executive branch to follow in administering the provisions of the acts or ordinances. All statutory law must be consistent with the applicable constitution(s). The executive and judicial branches of government can not act without the authority that statutory law provides.

It is the job of the executive branch to interpret and otherwise administer the provisions that statutes create. Hence, "administrative law" relates to activities of the executive branch of government. Administrative law can take the form of policies and procedures that the executive branch makes for its own operations. Executive orders such as E.O. 13006 ("Locating Federal Facilities on Historic Properties in Our Nation's Central Cities") are examples of this type of administrative law. Administrative law can also take the form of policies and procedures that people outside the executive branch must follow. Creating this kind of administrative law often involves consulting the people that the policies or procedures affect through a formal rule-making process. The rule-making process results in regulations, hence "regulatory" law. All regulatory law must be consistent with the statutory law that authorized the regulations as well as the applicable constitution(s). Most Federal statutes relating to battlefields have corresponding regulations. For example, the National Historic Preservation Act, as amended, created the National Register of Historic Places but National Park Service regulations spell out National Register requirements.

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*Site of the Sackets Harbor navy yard today. ABPP photo by Paul Hawke.*

## Preservation Activity

**1886** Local landowners donate 5 acres to the village for "Old Battlefield Park" to commemorate those who served in Sackets Harbor during the War of 1812.

**1928** Local women formed the Sackets Harbor "Civic Improvement League" to help convey the history of the village and foster improvements in the village.

**1933** The Village and the Jefferson County Historical Society give Old Battlefield Park to the State of New York. The Thousand Islands State Park Commission manages the park.

**1967 to 1974** The State of New York purchases the Union Hotel and 26 acres adjacent to the Old Battlefield Park and implements a program to open the historic site to the public.

**1973** The Village of Sackets Harbor adopts a historic district zoning law and establishes a Historic Zoning Board to regulate changes to historic structures and sites in the village.

**1974** The 1813 Sackets Harbor Battlefield is listed in the National Register of Historic Places.

**1983** The Sackets Harbor Village Historic District is listed in the National Register of Historic Places.

**2003** The Sackets Harbor community produces a planning vision for preserving and enhancing the historic character of the town, educating the general public about the town's

and region's history, and promoting tourism and economic revitalization. A preserved and protected Sackets Harbor battlefield figures prominently in the community's vision.

Today, Sackets Harbor enjoys seasonal activity as a lakeside recreational community. A small State historic site commemorates the naval base and events of the War of 1812. The State owns the location of one fort and a portion of naval station land. Much of the naval station has been lost to the modernization of the harbor to accommodate modern recreational boating. Most of the May 1813 battlefield is in private hands. The battlefield maintains a high degree of integrity; the landing area, the area of approach by the British, and the area of heaviest fighting are still recognizable.

*Source: "A Timeline of Sackets Harbor History," <http://www.sacketsharborny.com/>, © 2003 Village of Sackets Harbor and The Town of Hounsfield. Used with permission (May 13, 2004).*

**Today, approximately 31 acres of this 225-acre\* battlefield are legally protected.**

*\*Acreage represents estimates of historic lands associated with the battle provided by the Sackets Harbor Battlefield State Historic Site.*

### Site Contacts

John W. Deans, Mayor, Village of Sackets Harbor, 112 North Broad Street, Post Office Box 335, Sackets Harbor, New York, 13685 and Kevin Kieff, Regional Director, New York State Office of Parks, Recreation, and Historic Preservation, Thousand Islands Region, P.O. Box 247, Alexandria Bay, New York, 13607.

and content advice for grant products. I hope that these guidelines will help produce better ABPP reports in the future, and will be used in conjunction with standards for writing various types of products, like specific guidance on archeology reports or interpretive plans. [The guidelines will be published on the ABPP website this summer.]

Other research focused on the Revolutionary War and War of 1812 Historic Preservation Study. This nationwide survey of historic battlefields and associated properties will include a listing of various preservation techniques. I provided synopses of several funding sources and laws used as preservation techniques, including the federal Transportation Enhancement program, the Farmland Protection Program, Tax Credits for Rehabilitation, and the National Environmental Policy Act.

As part of the Revolutionary War and War of 1812 study, I was assigned to track down land use planning data for the battlefields. Armed with a telephone and Internet search engine, I located planning officials across the nation and asked whether current comprehensive plans or zoning in each official's locality addressed the battlefield site. As I spoke with planners in Massachusetts, Indiana, Kentucky, and other states, I learned that preservation in the United States is as varied as regional dialects. Some municipalities have full preservation planning documents about battlefields in their jurisdiction; others have no comprehensive plans at all. The range of land use planning at battlefields made the ABPP's efforts all the more significant in my mind.

Another research task for the study involved seeking an out-of-print congressional report entitled "The American Revolution Bicentennial Commission Report." Out-of-print, but not out of reach. Fellow intern Natalie Abell and I embarked on a one-day odyssey to the Library of Congress. We took the Metro to the Capitol South station and emerged in a pretty area of D.C. with historic row houses, trees, flowers, and the magnificent Capitol building. We quickly found the dome that signifies the Library of Congress' Jefferson reading room; however, as soon as we were inside the marbled foyer we

realized we could not enter without a special researcher ID. So, for the second time in our internship experience, we filled out forms and posed for identification pictures.

Armed with our photos and bibliographic citation, we were given access to the domed reading room - which we found after a meandering walk through the basement labyrinth and ascending in a gilded elevator. The reading room is beautiful with its murals of historic icons, elaborate arches, and rich interior materials. The space is intensely quiet despite the industrious but mysterious process by which workers located and brought us our prize. Though we wondered from where it had come, the American Revolution Bicentennial Commission Report provided us hours of fruitful research. We learned about commemorative programs relating to battlefields and national parks, particularly the National Park Service's program of rehabilitating numerous battlefield and park grounds and structures.

Aside from conducting research, Natalie and I spent much time organizing documents around the office. At one point we found ourselves faced with the hefty task of reorganizing the Civil War Sites Advisory Commission battlefield map collection. The maps needed to be resorted alphabetically by State. A few hours into our task, we had piles of maps stacked all over the library room floor-approximately one bulky pile for each State. After much juggling with the oversized maps, we had the map cases fully stocked and organized.

Another big project was documenting and organizing the ABPP's library, a collection of approximately 1,000 monographs loosely arranged chronologically by war. When I began the project, I didn't realize it would stretch throughout the twelve weeks and expand to include reports, videos, and CD-ROMs. I noted each text or product's subject matter, title, author, and location and entered this data into a spreadsheet accessible through CABIN, the program's intranet database. Though this task was at times tedious, I found myself learning basic military history that helped me understand better ABPP's grant projects.

## Recently Completed ABPP Grant Projects

***"The Civil War in the Cumberland Valley." February 2004. Prepared by Mudpuppy and Waterdog, Inc., for the Cumberland Valley Civil War Heritage Association.***

This project involved a historic resources survey and National Register nominations for Allen, Simpson, and Warren counties in Kentucky and Macon, Robertson, Smith, Sumner, Trousdale, and Wilson counties in Tennessee. The objective was to identify Civil War sites eligible for the National Register of Historic Places. Three National Register nominations were completed and three sites listed: Battery Knob in Smith County, Tennessee, Red River Blockhouse Number One in Robertson County, Tennessee, and Dumont Hill in Allen County, Kentucky. The project helped create an awareness and appreciation for the Civil War in the region and heightened interest in preserving remaining resources. Plans are underway to create an interpretive driving tour of the region highlighting the Civil War in each of the nine counties. For more information, contact the Cumberland Valley Civil War Heritage Association, P.O. Box 411, Portland, Tennessee, 37148.

***"The Battle of Averasboro, A Preservation and Management Plan." December 2003. Prepared by Mudpuppy and Waterdog, Inc., for the Averasboro Battlefield Commission, Inc.***

This preservation and management plan was developed with input from the citizens of Cumberland and Harnett counties, North Carolina. The community offered valuable suggestions about how the battlefield might be preserved. The plan establishes priorities for battlefield land preservation, preservation of Oak Grove (the c. 1793 house at the center of the battlefield), community education, funding for ongoing land protection, county cooperation, and enhancements for a scenic byway within the battlefield. The 4,150-acre Averasboro Battlefield was the scene in 1865 of an important Confederate delaying action prior to the decisive battle of Bentonville.

For more information contact the Averasboro Battlefield Commission, Inc., P.O. Box 1811, Dunn, North Carolina, 28355.

***"Cross Keys & Port Republic Battlefield Preservation Plan." November 2003. Prepared by Sympoetica, Inc., for the County of Rockingham, Virginia, and the Shenandoah Valley Battlefields Foundation.***

Rockingham County, the Shenandoah Valley Battlefields Foundation, and a citizens' steering committee jointly developed a preservation plan for two major Civil War battlefields in Rockingham County, Virginia. The community-based preservation plan resulted from an inclusive public participation process. The plan reflects battlefield landowners' concerns about agricultural viability and presents recommendations that promote both battlefield and farm preservation. The model plan assigns each battlefield parcel a preservation value and priority, notes the conditions of the battlefields and their environs, describes potential preservation tools and techniques available in the Shenandoah Valley, and

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***The community-based Cross Keys & Port Republic Battlefield Preservation Plan promotes agricultural viability and heritage tourism through preservation of two Civil War battlefields.***  
*NPS photo by David Lowe.*

The judicial branch is responsible for assessing the legislative branch's creation of statutory law as well as its interpretation of the authority provided by the applicable constitution. The judicial branch of government is also responsible for assessing the executive branch's creation of administrative law and its corresponding interpretation of statutory law. The judicial branch cannot make decisions on its own initiative. Someone with the legal right to initiate a lawsuit (standing) must seek judicial involvement by filing a lawsuit, seeking an injunction, etc. Judicial decisions are often referred to as "case law."

You also can think of categories of law by general functions or by the subject matter that the law covers. These categories can be very general, such as criminal law, contract law, and real property law. The categories can also be organized by subject matter. For example, you could think of "Battlefield Preservation Law" as a subcategory of "Historic Preservation Law" which draws from contract law, real property law, etc., and which includes statutory law, regulatory law, and case law at the Federal, State, and local level. If you are interested in Tribal or international battlefields, you may also need to know something about treaty law.

In sum, the word "law" (by itself and unadorned by adjectives) can mean any or all of the variants described above. Therefore, when you hear someone say something like "the law requires," it makes sense to ask what law the speaker is talking about.

### **The Fine Print and Caveats**

Always read the fine print. It will help you to determine how much you can rely upon or use the material in the main text. The term "caveat" means limitations, exceptions, or warnings about the main text. The fine print and caveats should help the reader avoid misinterpretations and help the writer avoid legal liability due to misinterpretations by a reader. The caveats for this article are that the observations and opinions are my own and do not necessarily represent the opinions of the National Park Service. The information in this article reflects my general observations. It does not constitute specific legal advice.

*John Renaud has worked for more than 25 years in the National Park Service's historic preservation programs. He is a member of the District of Columbia Bar and has academic degrees in History and Law.*

Project grants are the top priority of the program. ABPP awarded 21 project grants in 2003. Notifying various parties about these selections proved a massive effort, involving letters to U.S. Senators and Representatives, to unselected grant applicants, to grantees, to State Historic Preservation Officers, and to National Park Regional Service staff. I helped write, edit, and send many of these letters. I wrote and edited press releases for the 2003 grantees, and edited scopes of work for each new grant agreement. I also helped reorganize the active grant files into a standardized format and helped update status reports, contact information, and grant extensions.

As I look back, I feel lucky to have landed in such an interesting program. The research, writing, editing, and

organizing I was able to do for the ABPP has strengthened my appreciation for battlefield preservation and grants management. I understand now the work involved in successfully funding and administering projects across the nation, and how significant studies like the Revolutionary War and War of 1812 report will be in shaping public policy towards these sites. I won't forget the hardworking, kind, and easy-going staff of the ABPP nor my opportunity to temporarily be one of them.

*Kate Shiflet was an intern with the ABPP from May through August 2003. She then returned to Mary Washington College in Fredericksburg, Virginia, where she completed her degree in historic preservation in May 2004.*

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discusses current and potential management issues. The battles of Cross Keys and Port Republic were General Thomas J. "Stonewall" Jackson's final two victories against Union opponents in his 1862 Shenandoah Valley Campaign. For additional information and copies of the plan, contact the Shenandoah Valley Battlefields Foundation, P.O. Box 897, New Market, Virginia, 22844.

***"Report on the Location and Status of the Extant Segments of Braddock Road in Fayette County, Pennsylvania." August 2003. Prepared by Cynthia Kral and John Boback for Partners In Parks.***

This study was undertaken to identify and document extant segments of the military road used by General Braddock during his 1755 campaign against the French at Fort Duquesne. Partners in Parks interns conducted archival research, site visits, and personal interviews with property owners to identify the Braddock Road trace. For more information, contact Partners In Parks, P.O. Box 130, Paonia, Colorado, 81428.

***"Strategic Plan: Battle of Camden National Historic Landmark." May 2003. Prepared by the Palmetto Conservation Foundation.***

In 2000, leaders of 26 agencies formed a coalition to develop a strategic plan for the Camden Battlefield. Terms of an easement donation required that a strategic plan be in place for the battlefield by 2005. The Executive Committee, Archaeology Committee, Finance Committee, and History & Records Committee of the coalition's Advisory Council each prepared sections of the strategic plan. Goals for the plan include preserving the site permanently, interpreting the battle on-site, and establishing a military park at the battlefield. The British rout of the Continentals at Camden resulted in approximately 2,000 patriot casualties and the ignoble loss of Maj. Gen. Horatio Gates' reputation. For more information, contact the Palmetto Conservation Foundation, 1314 Lincoln Street, Suite 213, Columbia, South Carolina, 29201-3154.

# BATTLEFIELD UPDATE

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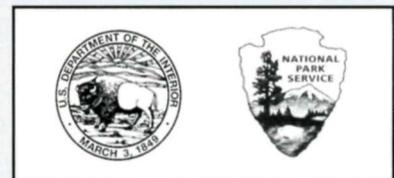
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