

CALIFORNIA  
STATE  
LIBRARY  
FOUNDATION

Number 126  
2020

# Bulletin







CALIFORNIA  
STATE  
LIBRARY  
FOUNDATION

Number 126  
2020

# Bulletin

## EDITOR

Gary F. Kurutz

## EDITORIAL ASSISTANTS

Brittneydawn Cook      Gene Kennedy

## COPY EDITOR

M. Patricia Morris

## BOARD OF DIRECTORS

Kenneth B. Noack, Jr.

*President*

Marilyn Snider

*Vice-President*

Mike Ueltzen

*Treasurer*

Jeff Volberg

*Secretary*

Greg Lucas

*State Librarian of California*

Phillip L. Isenberg

Thomas W. Stallard

Phyllis Smith

Susan Glass

Katherine Weedman-Cox

Brittneydawn Cook

*Executive Director*

Gene Kennedy

*Foundation*

*Administrator*

Shelley Ford

*Bookkeeper*

The *California State Library Foundation Bulletin* is published when we are able. © 2004-2020.

Opinions of the authors are their own and do not necessarily reflect the opinions of their institutions, the California State Library or the Foundation.

The *Bulletin* is included as a membership benefit to Foundation members and those individuals contributing \$40.00 or more annually to Foundation Programs. Membership rates are:

Associate: \$40-\$99

Contributor: \$100-249

Sponsor: \$250-\$499

Patron: \$500-\$999

Institutional: \$500

Corporate: \$750

Lifetime Member: \$1,000

Pioneer: \$5,000

Subscription to Libraries: \$30/year

## 2 . . . . . Archy Lee: The Golden State's "Dred Scott" Legal Case

*By Mary Beth Barber*

## 10 . . . . . Artist Carl Nebel Documents Mexico at Peace and War

*By Gary F. Kurutz*

## 20 . . . . . Shakespeare on Page and Stage: Using Cultural Artifacts to Enhance Outreach and Student Success

*By Diana Kohnke*

## 22 . . . . . Lost in research? Get a Guide to California History!

*By Elena Smith*

## 24 . . . . . Foundation Notes

Board of Directors News: Susan Glass and

Michael G. Ueltzen Elected to Board

Retirement of JoAnn Levy and Gary Noy

Thomas E. Vinson, the Foundation's Illustrious Treasurer, Has Retired

Gary F. Kurutz Inducted into California Library Hall of Fame

## 27 . . . . . Contributors List

**Erratum:** *Bulletin* 125, p. 28. The photograph of Gene Kennedy was mis-credited. The credit should be: Photograph by Jo Carol Mills.

**Front Cover:** *Las Tortilleras* by Carl Nebel. See article on pages 10-19.

**Back Cover:** *La Mantilla. Traje por la Mañana*. Hand colored lithograph by Carl Nebel.

**Illustrations and Photo Credits:** Pages 2-19 California History Section and General Rare Book Collection, California State Library with photographs by Brittneydawn Cook; pp. 20-21, Diana Kohnke, Sutor Library; 22-23, California History Section; p. 25, Angela Tannehill and Brittneydawn Cook; and p. 26, Blanca Kurutz.

**Design:** Angela Tannehill-Caldwell | [www.angelacaldwell.art](http://www.angelacaldwell.art)

## California State Library Foundation

1225 8th Street, Suite 345, Sacramento, CA 95814

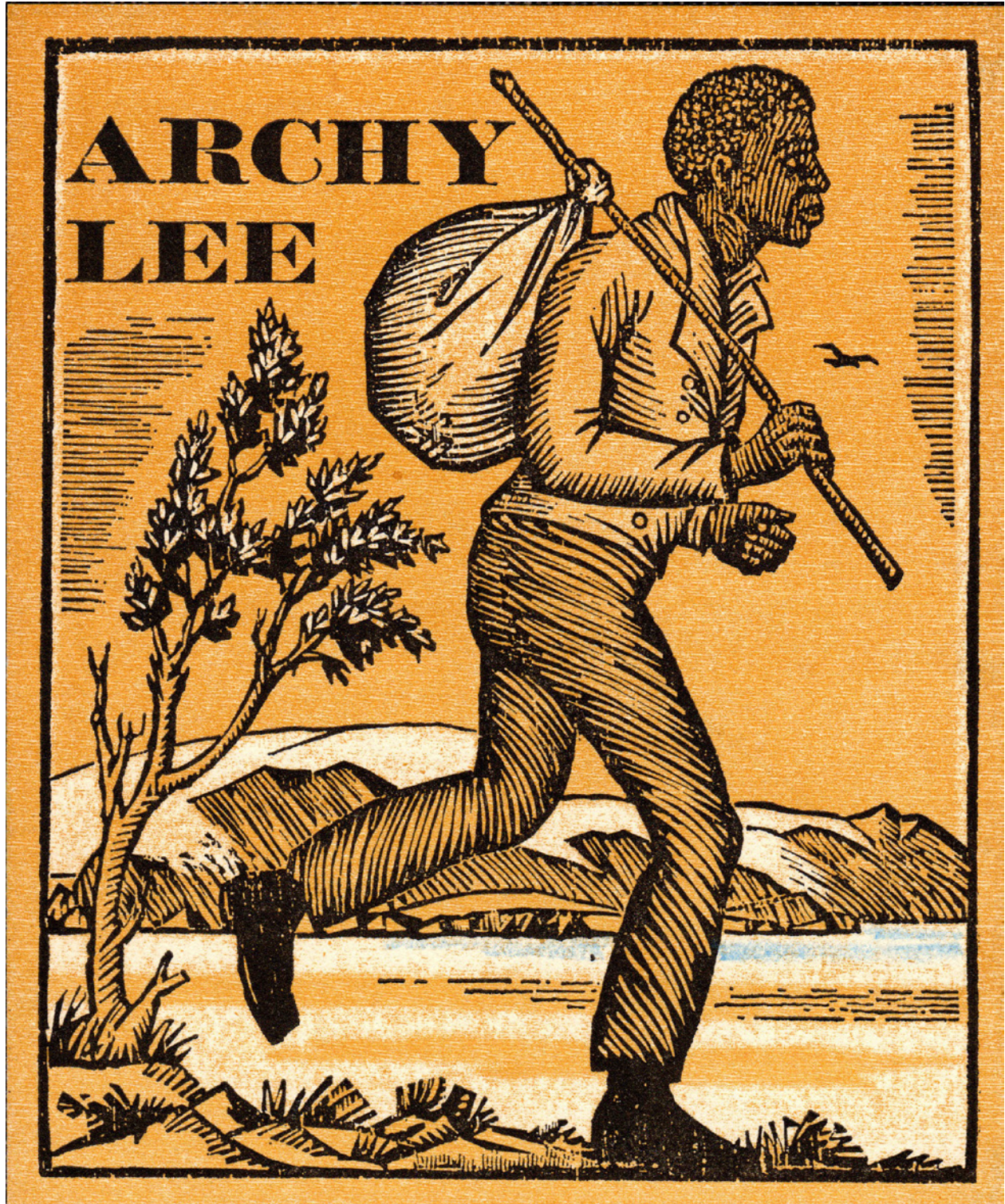
tel: 916.447.6331 | web: [www.cslibdn.org](http://www.cslibdn.org) | email: [info@cslibdn.org](mailto:info@cslibdn.org)



# Archy Lee }

The Golden State's  
"Dred Scott" Legal Case

By Mary Beth Barber



Archy Lee lithograph created by Mallette Dean for the Book Club of California's *Archy Lee: Fugitive Slave* (1969). Permission to reproduce the illustration was kindly granted by Mallette Dean's daughter, Debora Dean Kerkof and her family.



This article summarizes the research conducted by the late Rudolph M. Lapp, particularly for the publication of his book *Archy Lee: A California Fugitive Slave Case*. The book was originally published in 1969 by the Book Club of California in an edition of 500 copies. The book was illustrated by Mallette Dean, and the book was reprinted in 2008 by Heyday in paperback. Additionally, the California State Library's History Room analog card catalogs contain dozens of cards with specific Archy Lee references to historic newspapers and other records about the case.

As California was experiencing growing pains and the rest of the nation teetered towards conflict in the middle of the 19th century, a piece of federal legislation was causing havoc in free states. The law, the Fugitive Slave Act of 1850, was part of the Missouri Compromise between northern and southern states regarding slavery as an attempt to keep war at bay.

But it also led to increased tensions for the territories and newly minted state of California, because amid the hunting and kidnapping of African-Americans in the North for bondage in the South was the legal question of southern slave owners traveling to free states and territories and bringing their slaves in tow. If the slave-owner establishes residency in a free state, is the so-called slave not free?

This was the principal question of the U.S. Supreme Court decision of March 1857 in *Dred Scott v. Sanford*, one that the high court found in favor of southern slaveholders. The majority essentially stated that once a slave, always a slave, even in free states. The decision enraged the North and fed the flames of conflict that led to the American Civil War. Constitutional experts today deride the decision as legally unsound.

Yet while *Dred Scott*'s impact was playing out in the east, a related legal scenario was unfolding in the wild west of California, one with a very different outcome. The case was *C.A. Stovall v. Archy (a slave)*, sometimes known as *Ex parte Archy*. Noted historian Rudolph M. Lapp chronicled the episode in his well-researched *Archy Lee, A California Fugitive Slave Case*. I have endeavored to capture the essence of the story here.

## Early California and Slavery

The decade of 1850 was a tumultuous one in the Golden State. California established itself as a U.S. state a mere two years after the conclusion of the Mexican-American war. By the fall of 1849 gold seekers and longer-term California residents met in Monterey to draft a constitution, one that did not include slavery.

The reasons California's first constitution writers did not include slavery were various. Some writers were avid abolitionists. Other California newcomers viewed slavery as an economic disadvantage for non-slave holders. *Californios*, the former Mexican landholders who were now American property owners, came from a country that officially had forbidden slavery two decades prior. While this Mexican law did not apply to indigenous peoples in practice, many *Californios* rejected official state-sanctioned slavery for individuals of African heritage. Yet some California constitution drafters wanted to exclude African Americans from the state completely, as well as other minorities. Other early founders of California were pro-slavery and deeply discriminatory against African Americans. These individuals include the state's first governor and later state supreme court justice Peter Burnett.

Whatever the reasoning, when finally drafted, the California Constitution forbade slavery and California declared itself a free state. Despite the breach of protocol by declaring itself a state before approval by Congress, and despite heated debate and serious misgivings by representatives from the South, the national legislative branch accepted California and its constitution.



Lithograph created by Mallette Dean depicting a scene in which Archy Lee is being kidnapped and sailed across San Francisco Bay. Permission to reproduce the Mallette Dean illustration was granted by Dean's daughter, Debora Dean Kerkof and her family.

California became the 31st state in September of 1850.

That early California had conflicting and sometimes hypocritical views on slavery and personal freedom was not unusual. Mexico banned the enslavement of individuals of African heritage in 1829, yet native peoples were forced into servitude continually. California entered the Union as a free state, but passed laws forbidding African Americans and Asians from testifying in court and other racist legislation.

Despite these civil rights violations, California still attracted a small but strong-willed African American community. Sacramento was the center of anti-slavery activism and the site of the first California Colored Convention. Free blacks, former slaves, and stalwart abolitionists were some of California's first residents, like Biddy Mason in Southern California gaining their freedom through the courts. San Francisco housed

Mary Beth Barber works for the California State Library as a special projects coordinator and is a frequent contributor to the Bulletin.



Advertising for the Hacket House published in the *Mirror of Our Times*, a newspaper founded in 1857 by two African American businessmen, Mifflin Gibbs & James Townsend.

**DISSOLUTION OF CO-PARTNERSHIP.**—The co-partnership heretofore existing between Hacket, Parker & Temple, in the Hacket House, is dissolved by mutual consent. The business will be conducted in the future by Messrs. Hacket, Parker & Hall, on and after this date, November 2, 1837.

JESSIE HACKET,  
C. W. PARKER,  
RICHARD A. HALL.

N. B.—All bills payable and receivable, to be presented to Coas. W. Parker, of present firm, as soon as possible.

**Hacket House,**  
No. 262  
Third street, between K and L,  
SACRAMENTO.

**T**HE Undersigned would inform their Friends and the Public generally, that they have opened a new, and one of the most commodious Houses in the State; and where they are prepared to furnish accommodations in their line of business, that cannot be surpassed in California. The Public are respectfully invited to give us a call.

Bar and Billiard Saloon under the direction of C. W. Parker.

A fine bath room is connected with the establishment.

J. HACKET,  
C. W. PARKER,  
R. A. HALL, } Proprietors.

114-115



L Street & 3<sup>rd</sup> Street, Sacramento, California. 1857. Image from stereograph published by E. Anthony, 501 Broadway, New York. Courtesy of the Mead B. Kibbey Stereo Collection. The Hacket House would have been between this block and K Street.

successful African-American businessmen and women, particularly free blacks who served on ships.

The Gold Rush also attracted southerners, most of whom were pro-slavery and deeply racist. So in January 1858 when a young white man from Mississippi ordered a young black man back to slavery and was refused, the case became a touchstone of racial turmoil in California. What transpired over the next ten weeks enraptured the public and press throughout California as the young African-American man's legal case took multiple twists and turns, during which he was jailed, freed, kidnapped, and released multiple times.

### Archy Lee: A Mississippi Slave in Free California

Archy Lee was an African-American man who came to California in 1857 with Charles Stovall, a 20-something slaveholder from Mississippi. In the South, Lee was a slave on the Stovall plantation. In California, Lee worked as a barber. While he turned over a portion of his earnings to Stovall, Lee also became part of the community of free African Americans in Sacramento. Stovall had intended to seek gold, and when that didn't pan out, he opened a school. The young Mississippian gave up on California around the first of the year in 1858 and told Lee to pack his things; they were going back.

While Stovall may have wanted to go back to Mississippi, Archy Lee did not. Stovall recruited local police to arrest Lee and force him to return. On the night of January 6, 1858, authorities went to the African-American run hotel Hackett House on 3<sup>rd</sup> Street in Sacramento between K and L Streets, arrested Lee, and imprisoned him in the local jail.

At stake was the legitimacy of the Fugitive Slave Act in booming post-Gold Rush California. Lee's attorneys noted he had travelled with Stovall willingly and was therefore not a fugitive. They also noted that Stovall established residency by opening a school, and California residents could not



own slaves and therefore Archy Lee was free.

The first testimony was in front of a local Sacramento County judge Robert Robinson. Hackett House owner Charles Parker raised funds for Lee's defense and hired prominent white abolitionist attorneys, including Edwin B. Crocker, brother of railroad magnate Charles Crocker. Stovall's attorneys argued to move the trial to a federal district court knowing that particular judge, U.S. Commissioner George Pen Johnston, was born in the south. Johnston, likely seeing the legal and political pitfalls of the case, sent it back to the county district court.

During the Sacramento County trial testimony on January 23, 1858, Archy Lee spoke up about his wishes. "I don't understand what you are speaking of," he said to the judge when asked in legal language whether he wanted to go back to slavery. "But I want it to come out right: I don't want to go back to Mississippi."

Three days later Archy Lee was declared a free man by the Sacramento County judge. Immediately after the ruling was issued, Lee was arrested again. Stovall had enlisted the help of California State Supreme Court Chief Justice David Terry, a pro-slavery Tennessee native. The stunned Sacramento audience of free African Americans walked with Lee back to jail, where he waited another two weeks for the state supreme court trial.

## California Supreme Court Decision

Two of the three judges of the California Supreme Court, Terry and former Governor Burnett, were strongly pro-slavery. On February 11, to a packed room of anti-slavery activists and pro-slavery southern sympathizers, Terry announced that Archy Lee was to be "given back" to Stovall.

"The press described the decision as everything from 'lame and impotent' to a crowning absurdity," wrote Lapp in his book. "Some wanted to see Terry and Burnett impeached. The feeling was widespread that these two men had surrendered

the dignity of the State Supreme Court to appease prejudice."

Lapp's research of newspaper accounts and other materials outlines the charged nature of the outcome. The room erupted with emotional outbursts, and on the way back to the station house and imprisonment, Lee tried to escape three times.

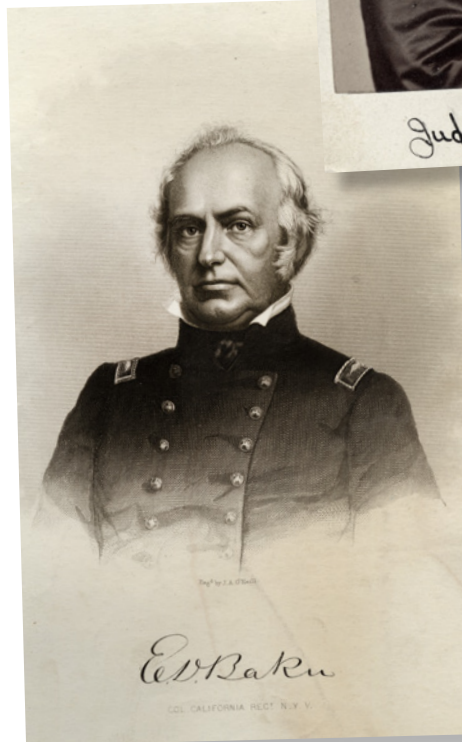
When the official decision was made public, it was apparent that the court essentially agreed with Lee's attorneys that Stovall was not a traveler but a resident, and

Lee was not a fugitive but a willing traveler who should be a free man in California. Regardless of these facts, the judges still enforced slavery, stating that Stovall deserved pity because he was young and in ill-health, so Lee was to be imprisoned and "given" to Stovall to return to Mississippi.

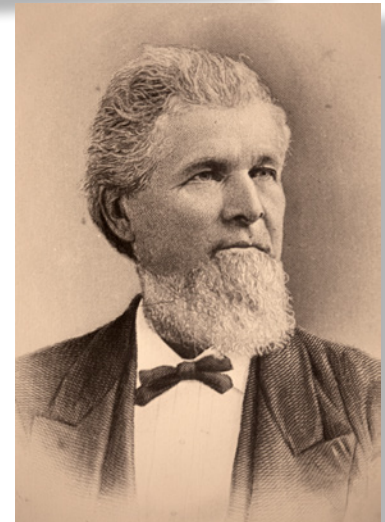
The young state was embroiled in the conflict. Newspapers derided the decision, noting that the state's top judicial officials completely ignored the state's constitution. One Letter to the Editor of the *Alta California*



Attorney and later Judge Edwin B. Crocker photographed by A. A. Turner.



Colonel Edward Baker, abolitionist lawyer and friend of Abraham Lincoln, who argued in favor of freeing Archy Lee.



Judge Robert Robinson, third judge of the probate and county court for Sacramento who ruled that Archy Lee was a free man on January 26, 1858.