

**Preparing For The Prodigal Sons:
The Development Of The Union Desertion Policy During The Civil War**

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In March 1864, nine men of the Georgia State Line from Lumpkin, Hall, and Marion Counties faced courts martial on the charge of desertion. They stood accused of leaving their camp at Resaca, Georgia, with the intent to desert to the enemy. In addition to the contents of their haversacks and the admissions they had made to fellow soldiers, the evidence against them included a letter written by one of them, E E. Franklin, to his brother. The letter discussed a plan conceived by Franklin, his brother, and seven others, to "slip away" and desert to the Yankees. In the letter, Franklin cautioned his brother against moving too soon, as he believed that Sherman would soon push the Confederate army back into Georgia and the closeness of the two armies would make it easier to slip quietly into the Union lines. Franklin not only failed to convince his brother, but he failed to heed his own advice. Perhaps swayed by his brother's zeal or the opinions of the rest of the group, Franklin joined in the scheme. They should have waited. Not one of the nine men made it to the Union lines. However, even with the letter, none were convicted of deserting to the enemy. One of their party, Pvt. Francis C. Tumlin of Hall County, the apparent ringleader, received a sentence dismissing him from his Georgia regiment and reassigning him to a unit as far from Georgia and Hall County as possible.(1)

These Georgia soldiers unsuccessfully attempted what many of their comrades would accomplish throughout the war, deserting the Confederate army and turning themselves over to the Union authorities. However, the act of deserting to the Union army indicated that desertion among Southern soldiers had taken on a significant new meaning. Historically, desertion served as a measure of an army's morale, but it seldom indicated that its soldiers had embraced the enemy's cause. Desertion simply meant a voluntary, if illegal departure from service.

During the American Civil War desertion took on a deeper meaning; by abandoning his military duty a soldier simultaneously abandoned the Southern cause. This became possible when the Union began offering deserters the opportunity to swear the oath of allegiance to the Federal government in exchange for their release and the opportunity to return home. When this program became a reality in the late summer of 1863, Confederate deserters became the first rebels to return to the Union. Some remained in the North until the war ended. Others returned home, increasingly easily later in the war as the Union army

displaced Southern civilian and military authorities. Some men became "galvanized Confederates," men who not only deserted and took the oath but then also joined Union army units sent to the frontier. (2) However, all of those who successfully deserted to the enemy were among the earliest Southern citizens to undergo reconstruction.

On December 8, 1863, Abraham Lincoln issued his Proclamation of Amnesty and Reconstruction, an executive order that offered a full pardon and restoration of all rights to Confederates who reaffirmed their allegiance by taking an oath of future loyalty. The program represented Lincoln's first attempt at a comprehensive plan of reconstruction. At the same time, the plan provided a means to shorten the war by undermining civilian enthusiasm for the war effort, and by preparing the South for emancipation. Known as the 10 percent plan, Lincoln's reconstruction order allowed any state whose loyal members equaled 10 percent of the 1860 registered voters to form a new state government that would be entitled to representation in Washington. (3)

Lincoln's plan excluded high-ranking Confederates, allowed Congress to establish its own qualifications for readmitting members, and provided an acceptable loyalty oath. Yet it was neither the first reconstruction effort, nor born out of pure inspiration. (4) Lincoln's proclamation emerged in the aftermath of a policy developed by the War Department for releasing Confederate prisoners of war and deserters. Like the 10 percent plan, this military "reconstruction" policy provided Confederate soldiers the opportunity to reestablish their loyalty to the Union. The program not only preceded Lincoln's Proclamation of Amnesty and Reconstruction but served to shorten the war by undermining the South's military strength.

For many people, both during the war and afterwards, the Civil War and Reconstruction became the second American Revolution, whereby America transformed itself from a nation divided by slavery to a country united in freedom. The revolution destroyed the aristocracy of the South and its slave-holding dynasty. An essential part of the revolution required the North not only to win the war but to bring the rebellious Southern population back into the fold without the institution of slavery. The key to reintegrating the South lay in the success of reconstruction. Despite all of the attention traditionally focused on Lincoln's 10 percent plan as the genesis of reconstruction, the first "prodigal sons" to return to their "father's house" were not Southern civilians but Confederate soldiers. The most recognized rehearsals for reconstruction, Louisiana and the South Carolina sea islands, saw Union efforts to

reintegrate civilian white populations and slaves into the Union. However, these studies ignore the military effort, beginning in late 1861, and continuing throughout the war, to reconstruct the South while simultaneously destroying its ability to wage war.⁽⁵⁾ The civilian efforts demonstrated isolated attempts to begin piecemeal reconstruction, but the North's steadily evolving policy for deserters and prisoners of war actually represented the first comprehensive Federal program, designed to bring Confederates back into the Union. The evolution of this policy not only represented the first efforts at reconstruction but may also be the first American Federal witness protection program.

Like so many aspects of the Civil War, neither side foresaw the administrative and logistical demands of large numbers of prisoners and deserters. Union authorities both military and civilian invented rules and then modified them as they went along. An early policy characterized by ad hoc determinations of field commanders constantly seeking guidance from their superiors and the civilian leadership, particularly the U.S. War Department, evolved into a system with clearly defined procedures. Over the course of the war a release process emerged that distinguished between prisoners of war and deserters, one that recognized winning the war required destroying the Confederate army. Important policy considerations underlined the distinct treatment afforded deserters as opposed to prisoners of war. The differences reflected clear war aims that balanced the desire to undermine the enemy's morale and war-making capacity with an obligation to the Union soldiers held in Confederate prisons. Eventually, humanitarian obligations to the Union's own prisoners, obligations that emphasized prisoner exchange over all other means of release, yielded to the need to crush the South. By 1864 the concern that released prisoners might return to duty in the Confederate army left deserters as the only Confederate soldiers allowed to swear allegiance and go home.

The Confederacy did not passively allow desertion to deplete its smaller army. It took steps to counter not only the Northern efforts that encouraged desertion, but the divisions in Southern unity evidenced by civilian disobedience and state laws that subordinated or ignored national needs in favor of local and regional interests. The Southern efforts proved inadequate as the North combined a generous release policy, with its military occupation of the South, to create an environment conducive to desertion.

Oath-taking began almost immediately after the war began. In autumn 1861, both sides demonstrated a willingness to release enemy soldiers

who swore allegiance to their respective causes, or agreed not take up arms against that side. On October 12, 1861, the assistant adjutant general of the U.S. Army, Lt. Col. Edward D. Townsend, issued Special Orders No. 170 on the release of prisoners of war. He indicated that fifty-seven Union prisoners held in Richmond had taken an oath to the Confederacy and been released. The Confederate prisoners held in Washington and New York would be allowed to do likewise. His order provided two forms of the oath, the standard oath of allegiance, and an alternative "Oath of Obligation Not to Bear Arms," which proved inadequate to insure loyalty and did not survive the war.(6) Although numerically insignificant, the early releases of Confederate prisoners revealed a problem that continued for most of the war: where does one go after renouncing his duties as a soldier and a citizen? In 1861, Confederates taking the oath traveled from Washington or New York to Fort Monroe, Virginia, where under flag of truce they passed south through the U.S. lines.(7) For those Confederates taking the oath and renouncing the Confederacy, or at least refusing to fight against the Union, returning through rebel lines defeated their purpose. Rather than securing their freedom, they returned to the custody and control of the government they had renounced. Solving this question proved no easy task.

The influx of prisoners of war and deserters abated in late 1861 and early 1862. There was little if any fighting during this period, none on a large scale, and therefore little opportunity to take prisoners, and even less of a motive for soldiers to desert. In February 1862, Grant began his offensive into Tennessee seizing Forts Donelson and Henry. David Farragut attacked up the Mississippi, bypassing Fort Jackson and taking New Orleans. In early April the two sides collided at Shiloh in what proved the bloodiest encounter to that point, and a foreshadowing of things to come. In the east, George B. McClellan finally attacked on the Virginia Peninsula, beginning a period of almost continuous campaigning that lasted through December 1862. This increase in fighting brought a rapid increase in prisoners and the beginning of the desertion problem.

June 1862 revealed the first signs of a weakened Southern resolve creating the need for a coherent policy to release soldiers no longer willing to fight for the Confederacy. In correspondence to the commandants of two Union prison camps, Assistant Secretary of War C. P. Wolcott offered general assurances for officials holding Confederate soldiers willing to renounce the Confederacy. Both camp commanders indicated that prisoners under their control wished to remain in prison rather than be released and sent back through the Confederate lines. Col. Gustavus Loomis, the commandant at Fort

Columbus, Governor's Island, New York, even provided signatures of rebel soldiers refusing to return to the Confederate army. Wolcott assured both commanders that after the establishment of a general system of exchange, no prisoner who took the oath of allegiance and "whose future loyalty there is no question" would be sent back through the lines of the rebel army.(8)

Wolcott could not have foreseen the eventual magnitude of the problems brought to his attention in the summer of 1862. His statements demonstrated how little consideration Union officials had given to desertion and the potential for widespread abandonment of the Southern cause by its soldiers. Wolcott said prisoners would not be returned to the rebel authorities, but he did not address the greater problem of what would be done with them. Not everyone could take the oath and avoid exchange, only those whose loyalty was beyond question. Release depended on loyalty, and Wolcott's letters raised questions no one had answers to: how did one verify loyalty, to whom did that responsibility fall, and what happened if loyalty could not be verified?

No one from the Union understood at this early juncture that prisoners and deserters represented two distinct categories and that eventually different policies would have to be developed for each. The early correspondence between field commanders and the War Department showed a willingness to release men who no longer wished to fight for the Confederacy, without a recognition that the strength of one's conviction to renounce the Confederacy varied, depending on how one came into Union lines. Confederate soldiers who came into Union custody as prisoners held a stronger commitment to the Confederacy than those who had deserted the army and sought refuge in the Union lines.

By July 1862 the confusion surrounding this area intensified as the magnitude of the problem became clearer. On July 8, Gen. Henry W. Halleck issued a directive to Gen. George Thomas, which added to Wolcott's earlier statements without clarifying anything. Halleck stated anyone within U.S. lines corresponding with the enemy was a spy and should be tried and punished. Southern deserters could be released on taking the oath of allegiance and giving parole. Halleck recognized that prisoners were not deserters but ignored the question of how to treat prisoners unwilling to return to the Rebels. He ordered that any wanting to return to the Confederacy should be delivered to the enemy when captured, after giving parole that they would not serve in the army again until regularly exchanged.(9)

The following week Thomas received a letter from William Hoffman, commissary general of prisoners, that asked the question Halleck avoided. Hoffman, a colonel in the Third U.S. Infantry, began the war as a prisoner when the Federal installations in Texas surrendered. Formally exchanged in August 1862, he served as commissary general of prisoners throughout the war, playing a major role in the development of Union prisoner and desertion policy.(10) Hoffman told Thomas that prisoners and their friends wanted to know, in the case of a general exchange of prisoners, if everyone had to accept the exchange and go south? Many Confederate soldiers wanted their release but did not want to return to the Confederate army. Could these men be singled out, allowed to join the U.S. service and take the oath of allegiance? Hoffman's request did not represent an isolated instance. In late July, Thomas received an inquiry from the commander at Fort Warren, Massachusetts, with a list of prisoners professing their loyalty, and "urgently requesting" that they be allowed to take the oath of allegiance and remain in the north.(11)

The release requests from both Union officials and prisoners themselves continued, resulting in scattered efforts to create a uniform policy supported by various arguments in favor of release. Andrew Johnson, destined to become president upon Lincoln's assassination, served as military governor of Tennessee until 1864. Johnson, appointed by Stanton on March 3, 1862, was to begin the reconstruction process in Tennessee by providing a functional governmental structure for that which the Union had destroyed.(12) In the summer of 1862 he wrote to President Lincoln concerning a forthcoming prisoner exchange. He suggested that prisoners refusing to take the oath should be exchanged first. If any remained who did not wish to return to the Confederate army, Johnson hoped that after sweating loyalty to the Union, they could be immediately released to return home. As for any prisoners wanting to return to the Confederate army, Johnson flatly stated: "Let them Go." The "expense of maintaining such men, still in a state of rebellion, should be borne by the rebels themselves."(13)

Johnson's letter represented the first indication that logistics and expense might dictate Union policy. He reasoned that men still committed to the South should be fed, clothed, and housed by the South and exchanged as soon as possible in return for Union soldiers. Although Johnson did not say so, he implied that deserters belonged in a different category. However, he implicitly grouped prisoners willing to take the oath with deserters from the Confederate army. True, when a prisoner took the oath to the Union he in effect deserted his military obligation. However, a deserter had already

abandoned his duty, his oath-taking merely reenforced his prior conduct. Prisoners had not left the Confederacy, they had merely been captured. Johnson did recognize that men able to demonstrate their loyalty and obtain their release benefitted the North in three ways. First, they were not a threat to continue the fight and word of their safe return might encourage others to do likewise. Second, if they were released they could return and provide for themselves and their families. Third, the Union would not have to feed, house, nor allocate valuable military resources guarding them. The first point supports a clear war aim: the demise of the Confederate army. The second served more of a reconstruction goal by enabling men to resume normal civilian lives as loyal citizens. The final consideration clearly addressed the issue of Union manpower and the benefits of not having to guard and feed prisoners. Johnson spoke as both a loyal unionist and a Tennessean. He wanted his state restored to the Union and returned to political normalcy as quickly as possible. Johnson understood Tennessee's importance to the war effort and its strong Union sentiment in the eastern part of the state. He believed releasing Tennessee soldiers willing to swear allegiance to the North and enabling them to return home would "exert a powerful influence upon the state at this time."(14)

Lincoln understood Tennessee's importance to the war effort, and he knew East Tennessee offered the most promise for an early Union reconstruction government in the upper South. From the early months of the war Lincoln pressed his military commanders to invade and occupy East Tennessee, but rugged terrain, poor transportation routes, and inclement weather made military operations difficult.(15) Johnson's suggestion of releasing Tennessee soldiers who swore the oath and allowing them to return home offered an appealing alternative. The North could seed the region with a "fifth column" of loyal citizens, who could at least stoke the embers of unionism until the military could successfully invade and occupy the region. However, if a soldier's honesty in taking the oath could not be verified, he presented the risk of re-supplying the Confederate army and undermining any effort to reconstruct Tennessee.

Although he failed to distinguish between prisoners and deserters, Johnson's request for a lenient release policy marked the beginning of the debate. From military and civilian government officials came requests, pleas, questions, and policy arguments supporting the release of Confederate prisoners of war and deserters who showed a verifiable willingness to abandon the Southern cause. By late July 1862, letters to and from military commanders and the War Department told of "insurgent" Confederate prisoners refusing to go south even

if released. Colonel Joseph H. Tucker of the 69th Illinois, commanding Camp Douglas in Chicago, wrote to Adj. Gen. Lorenzo Thomas and explained the motives of many of the Confederate prisoners: "They [Confederate prisoners] have entered the rebel service unwillingly; some through fear of being drafted, some to escape from actual imprisonment and from the impossibility of finding other employment. Others and principally those whose homes are now within our lines while they do not claim to have been forced to take up arms, yet profess to be fired of the rebellion and desire to return to their loyalty and their homes."(16)

Unwilling participants, the poor and those facing criminal prosecution in the South seemed likely candidates for release. However, the most significant class of men were those "whose homes are now within our lines" and who professed to be tired of war. They joined willingly but could not escape their obligation to the Confederacy while its forces held the areas where they resided. As the Union army occupied those areas, release became a realistic and desirable option. The combination of home and safety, critical factors to the Tennessee prisoners and deserters, became vital ingredients in Southern desertion later in the war.(17) However, the soldiers Tucker spoke of were not deserters, but prisoners and, unlike deserters, men who voluntarily joined and "claimed" to be tired of war might not go home at all. Releasing them posed the risk that they would return to the Confederate army.

By May 1862, a prisoner exchange system was in place, but the Union still lacked a uniform release policy for deserters and prisoners refusing to be exchanged. Ohio governor David Tod wrote Stanton on behalf of the rebel prisoners in Ohio who, despite their capture and ongoing military obligations to the Confederacy, refused to be exchanged. Wolcott replied on Stanton's behalf, repeating the advice he gave to the Union prison commandants in June. No prisoner taking the oath of allegiance "who will evidently abide by it" would be exchanged. However, without any guidelines for verifying a soldier's intent to abide by his oath, Wolcott's statement provided no assistance.(18)

Throughout most of 1862 Union policy did not distinguish between prisoners and deserters. So long as either showed a willingness to take the oath of allegiance, consensus held they should be released and sent home, or if they preferred, allowed to remain in the North. Maj. John J. Mudd of Illinois argued that doing otherwise undermined the Union war effort. He believed that paroled Confederate prisoners would "at once disperse to their several homes and few of them

[would] ever again enter the army even when exchanged." If, on the other hand, they were exchanged, they would return to their units, embittered by confinement and would fight "more desperately than before, rather than surrender and go into confinement again." Writing from Jackson, Tennessee, where he had personally observed Confederate prisoners, Mudd felt obligated to appraise Lincoln of the dangers of a straight exchange and the wisdom of sending loyal men home:

The romance of war has passed away and the soldiers of the South (really the most conservative class in the South) now perceive that the inducements held out to them to enter the army, amounting almost to compulsion, were in fact baseless except the supposed necessity of keeping their social status good at home, which does not require such sacrifices as a year since. Most of them are of the poorer but more conservative element of Southern society. Many men will surrender on any pretext if assured they will be paroled, and the rebels are constantly profiting by this knowledge while we reject the teachings of reason. Many homes and firesides could be reached by such a course as herein indicated which will never be reached by any other course. I know this is not military, but although in the army I am yet a citizen, and when I see what I believe to be a great and alarming error persevered in I would prove false to my obligations as a citizen were I to fail to raise my voice in warning. (19)

Mudd's reference to "social status at home" meant the duty Southern men felt to serve in the Confederate army. For some the sense of duty may have been satisfied after a year of fighting and personal sacrifices. But even men secure in their honor needed to know they could safely return home, free from the reach of the Confederacy to which many still owed an obligation of military service aside from any sense of honor. Most of the soldiers Mudd referred to came from Kentucky and Tennessee, states largely free of Confederate control by

November 1862. These men, if released, could return home without fear of recapture by the Confederate army. The Northern army provided the protection necessary for them to safely return to their families.

Mudd had identified an important military problem inherent in the prisoner exchange system. Capture in the early years of the war meant only parole, a release based on promising not to fight until formally exchanged. In a contest between two sides of disproportionate strength, the smaller side invariably benefits more from an equal exchange of prisoners. Both Grant and Lincoln justified eliminating the prisoner exchange system in 1863-64, based in part on this simple arithmetic "teaching of reason."⁽²⁰⁾ On the other hand, releasing men to return home undermined the South's war effort as severely as battlefield casualties. Even President Lincoln recognized that desertion weakened an army and that either army benefitted from inducing the enemy's soldiers to desert. In his March 1863 amnesty proclamation to Union soldiers he recognized that many men had been enticed to desert, thus weakening the army and exposing loyal soldiers to greater hazards. Three months later, in defending the arrest of Clement Vallandigham, Lincoln stated that encouraging desertion was as detrimental to an army as killing one of its soldiers. The policy considerations for releasing Confederate soldiers upon swearing the oath of allegiance were not lost on Lincoln by any means. However, Lincoln and the War Department had to be certain that men released and allowed to go home would actually remain there.⁽²¹⁾

In mid-August 1862, Capt. H. W. Freedley, commander of the Union prison at Springfield, Illinois, told Hoffman that many prisoners recently signed the rolls to take the oath of allegiance. Freedley assured Hoffman that they did so voluntarily and no inducements had been offered. He indicated that more would have signed, but felt that they had sworn an oath to fight for the Confederacy and their term had not expired. Until then they could not in good conscience take the oath. Freedley wanted to know what to do with such men and expressed frustration at keeping a roll of men where the data was "so limited, conflicting and unreliable."⁽²²⁾ Union authorities were beginning to understand that there was a big difference between deserters and prisoners. The requisite intent to voluntarily leave the Confederate army did not exist in the hearts and minds of many captured soldiers. They had not voluntarily abandoned, nor would they, their military duty, and a policy that treated prisoners like deserters served neither to reconstruct the South nor to undermine its ability to wage war.

E. H. Sutton, a private in the 24th Georgia confirmed the risks inherent in releasing prisoners. Sutton spent a portion of the war as a prisoner at Fort Henry and recalled a notice posted soon after his arrival offering prisoners the opportunity to swear loyalty to the Union, join the Union army, and get out of prison. Apparently some men not only took the offer, they also returned to prison to influence their comrades. This alone may account for some of the abuse oath takers received. Sutton claimed that many men took the oath to keep from starving and that it was sworn "just from the teeth out." He remembered an inscription from the Old Testament hastily scribbled under one of the notices, designed to discourage men from swearing allegiance, "they went out from us for they were not of us that it might be made manifest that they were not all for us." Many men believed they had sworn an oath to the Confederacy, and until their military service expired would not even consider swearing loyalty to the Union. Some who actually took the oath went into the Federal service and were sent to North Carolina. Upon arriving, they deserted the service and rejoined their Confederate units at the risk of being executed if recaptured by the North.(23)

Throughout August 1862, efforts to release deserters and prisoners continued, despite verification problems and the absence of formal guidelines from the War Department. Most of the activity involved Tennessee, driven by Andrew Johnson's zeal, but prisoners from eastern prisons also lined up for release.(24) In the midst of this flurry of activity, William Hoffman, commissary general of prisoners, ordered a stop to releasing prisoners. Almost simultaneously, the adjutant general's office finally issued a directive on oath taking that officially defined one condition of the oath that most commanders already understood: it had to be voluntary. Compulsory paroles of honor would be refused. However, oaths taken to avoid arrest, detention, imprisonment, or expulsion were deemed voluntary acts. Violators of their oaths would be punished by law and the "usages of war." Unfortunately the order merely restated the obvious, did little to clear up the confusion, and in no way countermanded Hoffman's order that effectively halted Johnson's efforts to release Tennessee prisoners.(25)

While the Union struggled to adopt a uniform policy, a pattern developed among the released prisoners. Tennesseans and Kentuckians released in the west went home, while many of those released from places such as Fort Delaware in the east chose to remain in the North. For many soldiers, going home presented severe transportation problems. In addition, most had nothing but their tattered clothing, and Northern commanders had no directives detailing what, if any,

necessities the prisoners would be given upon release. Some men had been transferred to camps in Illinois and Indiana, and the journey home on foot required time and effort. However, if one could not go home, he still had to get out of jail once taking the oath. For those loyal to the Southern cause, oath-taking amounted to desertion. Although Union military officials recognized that for oath-taking purposes there might be a difference between a deserter and a prisoner, loyal Confederates found anyone swearing allegiance to the Union a deserter to the cause, and they threatened their disloyal comrades with bodily injury and death.(26) This situation continued throughout the war, and Rebel officers openly condoned the mistreatment of oath-takers. In early 1864, the situation reached such an intolerable level within some prisons that commanders made requests to confine the oath-takers in separate facilities. Ultimately the best the Union could offer was separate billeting within the same prison facility.(27) This explained why, in 1862 and 1863, some men chose to stay north after their release. Men from Georgia, Virginia, and other areas still under Confederate civilian and military control risked capture and execution, or, at the very least, reinduction into the Confederate army if they returned home. But if one wished to stay alive, remaining in prison was not an option; the North was the only remaining place of refuge.

Administrative problems had been responsible for delaying prisoner and deserter releases. By August 22, 1862, the release process resumed. Now a triplicate form existed, to be completed by the releasing officer: one copy for the oath-taker, one for the commander releasing him, and one for Hoffman's office. In addition, Hoffman requested duplicate rolls be kept, one for the Secretary of War and one for the commissary general's office. Once released, each man had to get home as best he could, because the Union chose not to supply transportation.(28) The modifications to the release system provided the released soldier with physical evidence of his renewed loyalty to the North, enabling him to avoid harassment from Northern authorities attempting to rearrest him as a spy or enemy soldier. However, that same scrap of paper found on his person in the South by Confederate authorities, provided prima facie evidence of his abandonment of the Southern army and its cause. Thus, many men remained unwilling to return through Southern lines to their homes and communities still under Rebel control. Regardless of any sense of duty to home and family, safety remained an important concern.(29)

From the start of the war Northern civilian and military authorities saw the benefits of releasing Confederate soldiers willing to reaffirm their loyalty to the United States. However, their motives

often differed. Tennessee governor Andrew Johnson wanted to see his home state restored to political normalcy; officials like Ohio governor David Tod seemed moved by the plight of Confederate men unwilling to return South. People from western states like Ohio, Indiana, and Illinois often had closer personal ties to parts of the South than citizens in other parts of the Union. It would not have been unusual for one of Tod's constituents to have had family or friends fighting for the South. Secretary of War Edwin Stanton and the adjutant general's office reflected Lincoln's desire to restore the Union, but recognized there were military concerns that had to be balanced, specifically the danger of releasing men who might return to the Confederate army. In the middle were Union field commanders and prison officials with increasing numbers of prisoners and deserters that began to impede their military objectives and to overtax their facilities to house them.

In late November and early December 1862, the release of Confederate Prisoners stopped. Hoffman sent word to prison authorities and commanders in the field that no releases were to take place without authority from the Secretary of War. Union commanders wrote back trying to explain their situations and the need for a coherent policy. Rebel prisoners fell into different classifications, and field commanders hoped some could be released without approval from Stanton's office. Capt. Stephen E. Jones, at Louisville, Kentucky, actually classified the various types of prisoners coming into the Union lines in his command. In one class Jones grouped Confederate deserters and conscripts from the Southern army, captured but unwilling to be exchanged. In a second category Jones put Kentuckians recruited into the Southern army during its recent occupation of Kentucky, who remained in Kentucky when the South withdrew. He believed many in this group joined under the threat of conscription. Finally, the Union held Southern civilians that aided the Confederate army during Braxton Bragg's autumn invasion. Jones had been handling each case on its own merits, releasing some, sending others on to prison at Camp Morton and exchanging some at Vicksburg, Mississippi. The prisoner population had begun to exceed Louisville's facilities, and Jones needed to know how to bring a release case to the attention of the Secretary of War. (30)

Jones was not alone. Field commanders and prison authorities tried in vain to resolve individual cases and establish some uniform policy for releasing Confederate soldiers and civilians. Common questions involved how much discretion, if any, each commander had in deciding who to release or whether to release anyone, were prisoners and deserters to be considered the same, and what standards or criteria,

if any, was each commander to apply in determining whether a man deserved to take the oath?(31) The field commanders advocated a lenient Union policy based on military reasoning. Captain Freedley wrote from Indianapolis, Indiana, adamantly arguing for a "soft" policy in Kentucky, particularly for Confederate deserters. He told Hoffman many Kentuckians served only a few days or weeks, had already deserted and returned home, or had actually turned themselves over to the Federal army. "All are tired and disgusted with the Rebel service and desirous of returning to their homes, taking the oath of allegiance and becoming loyal citizens." Freedley believed a lenient policy would help secure Kentucky and that if these men were sent back to the South through the exchange system Kentucky would become a Rebel recruiting ground and "add so many more desperate men to fight against the country."(32)

Gen. Jeremiah T. Boyle, the Union military governor of Kentucky, agreed with Freedley's reasoning. He argued his position emphatically in a letter to General Horatio G. Wright, District Commander of Western Kentucky and specifically addressed Confederate deserters:

If extreme measures are taken forcing these men to Vicksburg we convert our state into a recruiting field to fill the thinned and decimated ranks of the Rebels.... If they are forced to prison they will never surrender themselves but make their way South, or form bands in our own state rather than be immured in prison.... There are yet in the Rebel army hundreds of them who will desert if opportunity offers. Shall all inducement to desert be withdrawn? Shall we punish for desertion from the Rebel army? Shall we announce to them that they shall have a felon's cell in our prisons or be sent to Vicksburg to a Rebel gallows?(33)

The argument for leniency presented compelling reasons not only to free Confederate deserters, but to encourage their desertion. Wright forwarded Boyle's letter to Gen. George Thomas, acknowledging his complete agreement with Boyle's analysis. The promise of freedom not only eased the strain on the Union prison facilities but severely

damaged the South's military effort. In addition, forcing men to go South against their will virtually assured their reinstatement into the Rebel service. Equally important, the implications of renegeing on the apparent Union invitation to desert the Rebel army could damage the Union war effort. Some prison officials resisted holding deserters captive. They believed such actions held out false hope for deserters and risked embittering those who deserted in reliance on the informal Union release policy.

One indication that releasing prisoners and deserters damaged the Southern war effort came from the Southern commanders themselves. In mid-December 1862, Confederate general John Pemberton claimed that Gen. Ulysses S. Grant had withheld information on the actual number and condition of Confederates captured in recent action. Grant replied that he had taken over a thousand men, excluding the sick and stragglers. He freed most after taking the oath and allowed them to go home.⁽³⁴⁾ Grant's response was not as significant as Pemberton's accusations. The fact that Pemberton questioned Grant's numbers indicated Pemberton expected to get some of those men back. Grant's failure to exchange most of the healthy prisoners cut off a valuable source of Confederate replacements.

As 1862 ended the Union's civilian leadership continued trying to resolve the prisoner/deserter problem. The War Department's efforts only partially met the need. However, Stanton's office crossed a critical threshold with the pronouncement that deserters were not to be considered prisoners. The Lincoln administration now began to alter its policy depending on how a soldier came into Union control: prisoner requests would go directly to the War Department, while deserters could swear allegiance and return home if the commanding general verified the soldier's story and believed the sincerity of his oath. Although this decision restricted the military's latitude regarding prisoners, the difference in treatment showed recognition that by voluntarily leaving the army deserters offered a greater assurance of their loyalty than did captured prisoners. Because deserters might be spies, field commanders still had to determine a deserter's honesty, and each deserter had to be judged individually. The death penalty for violating the oath offered some assurance of compliance, but only intuition and the circumstances of each case could verify whether a soldier deserted. Therefore, the deserter's story carried great weight, and the mere suspicion that he might be lying was alone sufficient to hold a man as a prisoner of war. To centralize the release of deserters in Kentucky, Maj. Gen. Gordon Granger issued a general order requiring deserters, even those who had already returned to their homes, to report to the Union

authorities and be properly adjudged a deserter, swear the oath and obtain their official release. Failure to report left deserters open to arrest as spies or incarceration as a prisoner. Even with efforts like Granger's, the directives from Washington fell short of a comprehensive policy, and those trying to make sense of the situation in the field knew it.(35)

The shift in Union policy demonstrated a recognition that prisoners and deserters were different. Those involuntarily captured were less likely to renounce the Confederate cause than those who deserted and sought sanctuary in the Federal lines. Deserters clearly intended to depart permanently. In a sense, this distinction casts considerable doubt on the traditional desertion figures. Only those going to the Union and swearing allegiance actually demonstrated clear intent. Undoubtedly, many Confederate soldiers were captured en route to their homes and re-impressed in the service or executed. Despite paying the ultimate penalty, it is impossible to be certain that such men never intended to return.

As the new year began, Union field commanders pressed the civilian authorities to bring uniformity to the discharge policy for Rebel deserters and prisoners. The onset of winter failed to bring a respite in combat. The bitter fighting and harsh winter that followed brought an increase in prisoners and deserters. General Granger stepped up his efforts in Kentucky, adding a new requirement to his previous orders, the posting of a bond. The amount of the bond required was not clear, it was only certain that it be "taken in a sufficient amount with sufficient sureties" to insure obedience to the oath.(36) Granger's effort showed some initiative on his part to bring uniformity within his command. However, his authority included only the Military District of Central Kentucky. More importantly, the bond requirement placed a severe limitation on the ability of many soldiers to take the oath and Granger's order stated that the oath and the bond would not absolve the deserter of any past offenses, specifically, taking up arms against the government or serving in the military of the enemy. This meant that even after swearing allegiance, a soldier could be arrested, tried, and convicted for treason. Other field commanders saw the need to offer more protection. Maj. Gen. William Rosecrans's General Orders No. 31 issued from Tennessee promised protection so long as one abided by his oath. All Granger's order provided was assurance against immediate arrest as a Rebel soldier or spy.(37) While it may have served an immediate military objective, it offered little incentive for a man to renounce his military duty and resume his place as a U.S. citizen. Granger's short-term solution did not survive for very

long.

The growing number of Confederate prisoners threatened to undermine the distinction established between deserters and prisoners. The overcrowding in the Union prison system elicited pleas from the district and prison commanders for discretionary authority to release prisoners as well as deserters.(38) Although William Hoffman had explicitly distinguished between the treatment afforded prisoners and deserters, as the need arose, Union commanders circumvented civilian authority and sought relief from whatever source likely to give it. This resulted in contradictory information and inconsistent release policies. Commanders discharged prisoners who seemed worthy and willing to renounce the Confederacy claiming that there was no specific U.S. order prohibiting them from doing so. Gen. Samuel Curtis, the Missouri department commander, went directly to General Halleck for discretionary authority to continue releasing prisoners. Halleck granted Curtis authority to do so, despite Hoffman's previous directives. Hoffman's position consistently stated that prisoners were not deserters, that only deserters could be released in the local commander's discretion and that once released, they were on their own.(39)

Based on his correspondence, Hoffman believed deserters offered a level of certainty of their convictions that prisoners could not provide. Desertion sufficed as a guarantee that a soldier would not return to the Rebel army. Prisoners might return to duty, thereby strengthening the South. Not even Confederate prisoners claiming to be from Illinois, having traveled south for work before the war and been drafted, escaped confinement. They had not voluntarily left the Rebel service when the opportunity presented itself, and as captured soldiers they did not provide the level of assurance that they had abandoned the Confederate army and cause. However, even desertion did not convince Hoffman that officers deserved release. He refused to allow commanders the discretion to release any officers, even those claiming to be deserters. Officers represented leadership and as such not only volunteered but were usually prominent members of the civilian community and unlikely to desert. Expressing a belief that found support in Lincoln's amnesty proclamation in December 1863, Hoffman ordered that even if an officer's desertion could be established, his case nevertheless must be sent to Hoffman's office for disposal.(40)

In the winter of 1862-63 the Union encouraged Confederate soldiers to desert. General Horatio G. Wright wrote Brigadier General White, commander of the Eastern District of Kentucky, explaining the proper

disposition of prisoners and other persons in the custody of Union authorities. White was to treat deserters with "all the leniency compatible with our own safety, it being a well established principle to weaken the enemy as much as possible by encouraging desertion among its ranks."(41) Meanwhile, state civilian authorities, particularly Governor Tod of Ohio, continued to press Lincoln and Stanton to release prisoners who were unwilling to return South. Stanton refused, telling Tod that unlike deserters, prisoners would most likely return to their units "so that we shall simply have to fight and take them again."(42)

In the summer of 1863, Hoffman turned his attention to a problem he and others had always suspected: that releasing a Confederate soldier after he swore allegiance might not be sufficient to guarantee his safety. Without a safe haven, many of these deserters and prisoners faced great danger, both in the South and in Union prisons, if confined with loyal Confederate prisoners. In June 1863, Hoffman sent Stanton a list of prisoners requesting to take the oath and be released. Hoffman indicated these men's lives had been threatened by "the enmity of other rebel prisoners," and he believed if exchanged, they would die. He resurrected the suggestion he made to General Thomas in 1862 that Confederates be allowed into the Union army and offered it as an alternative to both guarantee prisoner loyalty and protect them from loyal Confederates. These men could be released in Philadelphia, with the promise not to go South until the war was over, or to enlist in the U.S. Army. Stanton approved the idea, and Hoffman put it into practice.

Acceptance into this "protection" program required a prisoner to prove he had been impressed into Confederate service and now in good faith wished to join the U.S. Army. Once again, the call was purely subjective on the part of the examining officer. More importantly, it did not give broad authority to release Confederate prisoners. The consideration appeared to be based not on a voluntary departure from the Confederate army, but on the involuntary nature of their enlistment. Finally, because these men were prisoners, the decision still rested with the War Department and not the field commanders.(43)

Despite the disjointed chain of command that allowed some department commanders discretion to release prisoners, Hoffman and the War Department stayed the course. In a letter to the commander at Fort Delaware, Hoffman repeated the key differences between deserter policy and prisoner policy. Commanders in the field had no discretion to release prisoners upon taking the oath of allegiance. Second, no prisoner applications submitted by commanders would be accepted

without good reason. Good reason meant it "must be shown to the satisfaction of the examining officer (at the War Department) that the applicant was forced into the rebel service against his will, and has taken advantage of the first opportunity to free himself, or it may be granted as a favor to his family or friends." However, Hoffman stressed that an applicant's family or friends had to be loyal and willing to vouch for the applicant. Applications that did not meet this criteria could not be sent to the War Department; Hoffman returned some requests with his letter.(44) Deserters could be released at the discretion of field commanders merely by proving they had deserted. Prisoners had to show a War Department examiner evidence of involuntary enlistment coupled with voluntary departure at the first opportunity.

Although Hoffman's early August communiques defined the more stringent criteria for the processing and release of prisoners, the overcrowded prisons and the threat posed by bands of Confederate soldiers wandering the countryside still prompted some commanders to seek a more expeditious route to prisoner release. Gen. Ambrose Burnside issued an order from his headquarters of the Ohio Department, establishing his own clearing house for prisoner applications headed by Gen. N. C. McClean. However, within a week Stanton negated the order, saying he would issue an order on the discharge of prisoners. Rosecrans, faced with a burgeoning prisoner population and the threat of Confederate deserters hiding in the countryside afraid to surrender for fear of being exchanged, wrote Hoffman requesting special authority to parole prisoners. Rosecrans unilaterally issued a general order as commander of the Department of the Cumberland granting his subordinates the discretion to release prisoners. While Rosecrans's plan seemed judicious to the War Department, it went too far in its treatment of Prisoners and was rejected.(45)

All debate concerning the different treatment afforded deserters and prisoners ended with War Department General Orders No. 286 on August 17, 1863, and Hoffman's subsequent directives on releasing deserters.

1. No prisoners of war, after having been reported to the Commissary-General of Prisoners, will be discharged except upon an order from the commissioner of exchange of prisoners, who will act under instructions from this Department.
2. All applications and recommendations for discharge will be

forwarded to

the Commissary-General of Prisoners, who will indorse on each application

such facts bearing on the case as may be matter of record in his office,

when the applications will be submitted for the decision of the Department

through the commissioner of exchange of prisoners.

3. In general, the mere desire to be discharged upon taking the oath of

allegiance will furnish no sufficient ground for such discharge; but cases

where it can be shown that the prisoner was impressed into the rebel

service, or which can plead in palliation extreme youth, followed by open

and declared repentance, with other reasons, whatever they may be, may be

specifically reported.

4. In all cases a descriptive list of those discharged will be furnished by

the officer making the discharge for file in the office of the Commissary-General of Prisoners.

5. The oath of allegiance when administered must be taken without qualification, and can in no case carry with it an exemption from any of

the duties of a citizen.

By order of the Secretary of War:(46)

Although silent on the issue of deserters, the order eliminated any confusion as to discretion, procedure and criteria for discharge of prisoners. No one could misunderstand the process to be followed with regard to prisoners, and even President Lincoln followed proper channels. On August 19, 1863, two days after Stanton issued General Orders No. 286, Lincoln wrote Stanton concerning the release of nineteen-year-old Singleton Wilson, a prisoner in Camp Morton. Lincoln laid out the facts as he knew them and asked Stanton, "May it not be safely done?" Replying through William Hoffman, the War Department rejected young Wilson's request. Stanton wrote a reply to Lincoln at the bottom of the President's own letter. Stanton rejected

Wilson's application because the young man was well educated, had been voluntarily in the service for over two years, and had been an officer in an "organization that has been distinguished for active & relentless hostility against the United States." Lincoln and Stanton had battled over the disposition of Union deserters, with Lincoln's more lenient treatment often prevailing. However, there was no such debate regarding Confederate prisoners and deserters.(47)

Within ten days Hoffman pressed Stanton to set a uniform policy for deserters and used Rosecrans's August 16, 1863, letter to bolster his position. Large numbers of deserters began to come in from the west and southwest, and holding them as prisoners could quickly become cost prohibitive while each case awaited War Department approval. A simple parole without the oath of allegiance offered no benefit to the Union. Hoffman believed such a release put them "in a very doubtful position in which they certainly are not for us and may be against us. They have a decided advantage over their loyal neighbors, in as much as they take no part in defense of the Union and are not called upon to risk their lives in defense of their own homes." Hoffman advised Stanton to formalize the policy then, in effect allowing departmental commanders to investigate deserters and in their discretion allow them to take the oath of allegiance and reassume all the responsibilities of a loyal citizen. Hoffman further called for the creation of a record with the military history of each case: the deserter's name, rank, regiment, company, circumstances of his desertion, release and physical characteristics. This list would be forwarded to the War Department through the commissary general of prisoners. When commanders released large groups at one time, the names would be sent in alphabetical order.(48) The list became The Register Of Confederate Deserters, 1863-1865, and it served a very practical purpose in the overall Union scheme.(49) It provided a roster of the earliest reconstructed rebels, and a method of verification for any Confederate soldier subsequently apprehended in violation of his oath. The purpose behind recording physical characteristics of each deserter becomes clear. Age, height, eye color, hair color and complexion helped distinguish men sharing the same last name, thus enabling the Union to verify if a man violated his oath.

Stanton approved Hoffman's suggestions, and on August 29, 1863, Hoffman set out the official deserter policy to be followed by all commanders in all theaters. The War Department would not review deserter requests to take the oath of allegiance. At the discretion of the departmental commander, Rebel deserters could be released in the field upon taking the oath. The voluntary or involuntary nature

of enlistment was not a factor, nor did a deserter have to have Union friends or family vouch for his loyalty. The sole criteria was whether the Confederate soldier could prove he had deserted the army and was not a spy. General Orders No. 286 dictated prisoner releases, and Hoffman enclosed a copy with his letter. On August 30, 1863, Hoffman sent a similar letter to Maj. Gen. J. G. Foster at Fort Monroe, Virginia, and every other Union departmental commander. On September 26 Burnside revoked paragraph 1 of his discretionary Order No. 126 and published Stanton's General Orders No. 286. Consistent with Hoffman's instructions he left the portion that allowed for discretionary discharge of deserters.(50) After over a year of ad hoc administration, a comprehensive policy finally existed that clearly distinguished between prisoners and deserters and afforded deserters an almost immediate ticket to freedom, and home, if they chose. If home remained unsafe they could stay in the north.(51)

Some deserters chose to bring their wives north rather than risk the journey home. For most of the war the Union granted passports to Southern civilians, allowing them to travel north. In September 1864 Halleck stopped this practice, because many Southerners taking advantage of the passport privilege proved to be spies. However, the procedure had apparently been widely used by Confederate deserters unwilling or unable to safely go home. Rather than return to their wives, they had their wives come to them. This practice represented an important component of the Federal deserter release and protection policy, so much so that one commander wrote Halleck, "With reference to passports for females to come north, I do not understand by your communication that restrictions are placed upon wives of deserters from the rebel army who may wish to join their husbands."(52)

The Union policy making it more difficult for prisoners to secure a discharge represented the culmination of the policy arguments developed from the outset of the war. A deserter offered an element of assurance that he would not return to the Rebel army because he had already voluntarily left it with the intent not to return. Returning meant punishment, in many cases death. Union army and civilian government officials realized this fact. Prisoners, on the other hand, still required officials to guess at their true intentions. The onerous requirements that a prisoner prove his involuntary enlistment and have loyal friends and neighbors vouch for him reflected a belief that prisoners could not be trusted. With the harsh conditions characteristic of most prisons, any means of escape was worth trying, and lying about one's intentions presented few negative implications other than being refused. Many took the oath and soon returned right back to the Confederate army.(53) A

deserter's abandonment of his military duty also made it impossible to exchange him for Union prisoners and provided an additional reason for treating deserters differently than prisoners. From July 1862 until late 1863, Confederate prisoners could be exchanged for Union prisoners, under the tenuous cartel system. However, deserters were never part of this exchange process.(54)

The tension between civilian and military concerns existed throughout the process, even if not always evident. State governors received numerous requests from prisoners to intercede on their behalf. The desire to return home men who no longer professed a loyalty to the Confederacy appealed to civilian authorities. The fear that war unfairly discriminated against soldiers too young to make an informed decision also played a part in civilian attempts to formulate policy. President Lincoln was moved by the need to heal the nation's wounds and bring its former citizens back into the fold. Andrew Johnson's zealous, if somewhat biased, entreaties to reconstruct Tennessee did not escape Lincoln's attention, nor did Lincoln disagree with Johnson's position. However, even Lincoln, the highest civilian authority, recognized that reconstruction, although important, had to yield if in conflict with war aims. In his Annual Message to Congress just prior to issuing his 10 percent plan in December 1863, Lincoln stated: "In the midst of other cares, however important, we must not lose sight of the fact that the war power is still our main reliance. To that power alone can we look, yet for a time, to give confidence to the people in the contested regions, that the insurgent power will not again overrun them. Until that confidence shall be established, little can be done anywhere for what is called reconstruction. Hence our chiefest care must still be directed to the army and the navy."(55)

The Union desertion policy and its more stringent requirements for prisoners served both a war aim and a reconstruction goal. It kept the war power to the forefront by erring on the side of caution when determining which Confederate soldiers to release upon swearing allegiance to the United States. The policy allowed deserters to return home, yet prevented prisoners from insincerely swearing the oath and returning to the Confederate ranks. Again, Lincoln recognized this important aspect of his 10 percent plan and stated that "the oath ... is intended for those who may voluntarily take it, and not for those who may be constrained to take it in order to escape actual imprisonment or punishment."(56)

Lincoln intended that his proclamation be a component of the existing Union desertion and prisoner policies, and not to override those

already established. Shortly after he issued the December 8, 1863, Proclamation of Amnesty, Union commanders began circulating handbills of the executive order to Confederate pickets. The practice became so widespread that James Longstreet wrote his Union counterpart, Gen. John G. Foster, complaining of the practice. Foster replied that it was clearly his intent to induce desertion by explaining the favorable terms afforded by the Union but that he regretted not sending the handbills directly to Longstreet for circulation. Foster subsequently explained everything to Lincoln. By February 1864 Lincoln was reviewing detailed suggestions for more effectively disseminating his December 8 proclamation among Confederate forces in order to encourage desertion. He had Stanton review the feasibility of Col. Russell A. Algers's suggestion for using cavalry expeditions to take the handbills behind Confederate lines.(57)

Evidence that the civilian leaders gradually accepted military reasoning is present not only in the treatment of deserters but in the gradual abandonment of prisoner exchanges. Early in the war the Union's obligation to its own prisoners of war added force to a growing conviction that no Confederates should be discharged so long as there were Union prisoners waiting to be exchanged. The judge advocate general's office explained this reasoning in a letter to a rebel prisoner seeking to take the oath:

At present the policy of the department is against allowing rebel prisoners of war to take the oath of allegiance so long as we have captured soldiers of our own remaining in the hands of the Confederate authorities subject to exchange. They are believed to have the first claim upon our government, a claim which would seem to be ignored to the extent we deprive ourselves of the means of meeting it by setting at liberty those who, under the cartel, constitute the only available means of effecting exchanges. It is true by this process soldiers are withdrawn from rebel ranks, but this is not regarded as such a gain to our cause as is the ransom of our own tried troops from southern prisons. There are in addition considerations of

humanity involved which cannot be disregarded.(58)

The obligation to secure the release of Union prisoners soon gave way to the exigencies of winning the war. By the autumn of 1864 only deserters were being released. Grant believed that many prisoners swearing the oath returned to the South to fight, just as those who were exchanged did. Grant told Stanton, "It is through our leniency that the South expects to reap great advantage. We ought not make a single exchange or release a prisoner on any pretext until the war closes.... We have to fight until the military power of the South is completely exhausted, and if we release or exchange prisoners captured it simply becomes a war of exhaustion."(59) While the military reconstruction policy continued to redeem deserters, it abandoned the notion that prisoners offered any promise of reconstruction until the war's end. Again, Lincoln recognized that the military wisdom should prevail. Although under severe pressure from civilian interests to release prisoners, Lincoln not only continued to defer to Stanton's office for releases, but in late March 1864 issued another proclamation that specifically clarified that the opportunities afforded by his December 8, 1863, amnesty did not apply to persons who were prisoners when they sought to take the oath.(60)

As Union policy severely restricted prisoner releases, it grew even more receptive to deserters. In August 1864 Grant issued circular No. 31, stating that rebel deserters could not be enrolled, drafted, used as substitutes, or otherwise recruited into the U.S. Army. As the Petersburg siege continued Grant not only rewarded Confederate deserters with freedom, subsistence, transportation home (if within Union lines), but he found work for them in the quartermaster departments. Deserters bringing in arms, mules, horses, or any other property received the highest price available, in Union currency. Southern civilians who were telegraph operators or mechanics, or were employed on railroads or by the Confederate authorities could come into the Union lines and receive the benefits offered to military deserters.(61) Now the Union policy not only redeemed former rebels but made them vital cogs in the North's war machine.

Over the course of the war the Union policies toward deserters and Prisoners moved in different directions. Prisoners went from a status of almost equal footing with deserters to a class of soldiers doomed to confinement until the war's end. Desertion, although from the outset of the war seen as a benefit to the Union, gradually became a weapon in the overall war effort. From a policy that left deserters

on their own from the moment of their release, the Union eventually provided monetary inducements and transportation home in an effort to undermine the Southern war effort. The Union desertion inducements reached Confederate soldiers through their own pickets, who brought circulars and other notices promising indefinite parole and free transportation home.(62) The promise of transportation offered an important inducement. It hastened a man's return home, it prevented his having to endanger any civilians in reaching his destination, and- -because the Union could only transport a man as far as it had occupied Southern territory if a man were transported home, he need not worry about Confederate military retribution. Although secondary, the policy allowed the North to "seed" occupied areas in the South with reconstructed soldiers, thereby making the transition of its civilian population somewhat easier once the war came to a close.

Admittedly, the Union war time reconstruction policy lacked the power to reorganize and transform entire states or specific regions. However, the breadth of the program must not be overlooked. The Register contains the names of over thirty-five thousand Confederate deserters, from every Confederate state. During a period when Lincoln and the Congress grappled with the question of Southern reconstruction, this program brought Southerners back into the fold consistent with the primary goal of winning the war. Through the War Department, Lincoln's administration balanced with the needs of the military the desire to begin reconstruction. Sometimes war aims actually restricted military commanders, particularly limiting their ability to unilaterally allow prisoners to take the oath. That same restriction often frustrated civilian authorities, including Lincoln himself, who for one reason or another, sometimes personal, sought the release of a Confederate prisoner. Some civilians tried to bypass Stanton and went directly to Lincoln, but to no avail.(63)

By the end of 1864 Lincoln recognized that his amnesty program had allowed many Southerners to reaffirm their allegiance. However, many more might have, but "the signs of bad faith in some led to precautionary measures as rendered the practical process less easy and certain."(64) Prisoners could not be trusted; deserters could. Lincoln seemed to know the military benefit of his December 1863 amnesty program lay in inducing Confederates to desert and he as much said so when he sent Daniel Sickles on a tour of Union-held areas of Tennessee, Arkansas, Louisiana, Mississippi, Florida, and South Carolina: "Please ascertain at each place--whether deserters come in from the enemy, what number has come in at each point ... and whether the ratio of their arrival is any greater since than before the Amnesty."(65) Despite the attention given Lincoln's 10 percent plan,

it actually became a component of the military's deserter policy formulated in the first two years of the war, a policy that restricted the benefits of reconstruction to those who demonstrated their readiness to return. As the nation's "prodigal sons" gathered at the door, for them Lincoln was prepared to slaughter the fatted calf, but he would welcome home only those Confederate soldiers worthy of his trust. Lincoln could not have known that he would not live to see his vision of a new Union become a reality. As he prepared for postwar reconstruction, he could only believe that the military policy developed to encourage and reward Southern desertion had also provided a solid beginning for what he hoped would be the amicable return of the entire South after the war.

(1) Court Martial Proceedings of Private Francis C. Tumlin, Co. D, 1st Georgia State Line, Adjutant General's court martial proceedings, Georgia Record Group 3336-17, folder 1, box 1, Georgia Department of Archives and History, Atlanta, Ga. (hereafter cited as GDAH).

(2) Mark Boatner, *The Civil War Dictionary*, rev. ed. (N.Y.: David McKay, 1988), 322.

(3) Proclamation of Amnesty and Reconstruction, December 8, 1863, in *The Portable Abraham Lincoln*, Andrew Delblanco, ed. (New York: Viking, 1992), 296-99; Eric Foner, *Reconstruction: America's Unfinished Revolution, 1863-1877* (New York: Harper & Row, 1988), 35-36.

(4) Philip S. Paludan, *A People's Contest* (New York: Harper & Row, 1988), 253.

(5) Foner, *Reconstruction*, 35-76 passim; Willie Lee Rose, *Rehearsal for Reconstruction: The Port Royal Experiment* (New York: Vintage, 1964); James McPherson, *Abraham Lincoln and the Second American Revolution* (New York: Oxford University Press, 1991), 3-11. McPherson discusses the scholarship that argues the Civil War was America's second revolution, including the work of Charles Beard, one of the earliest proponents of the argument.

(6) For the standard oath see E. D. Townsend, Special Orders No. 170, October 12, 1861, in *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*, 128 vols. (Washington, D.C.: GPO, 1880-1901), ser. 2, vol. 3:51-52 (hereafter cited as OR). The Oath of Obligation Not to Bear Arms simply stated: "I do solemnly swear (or affirm) that I will not take up arms against the United States or serve in any military capacity whatever

against them until regularly discharged according to the usages of war from this obligation."

(7) Ibid.

(8) C. P. Wolcott to Colonel Richard Owen, June 21, 1862, and Wolcott to Col. Gustavus Loomis, June 27, 1862, OR, ser. 2, vol. 4:48, 90.

(9) Henry W. Halleck to Gen. George Thomas, July 8, 1862, *ibid.*, 150.

(10) Stewart Sifakis, *Who Was Who In The Civil War* (New York: Facts On File, 1988), 312; Boatner, *Civil War Dictionary*, 404.

(11) William Hoffman to George Thomas, July 15, 1862, in OR, ser. 2, vol. 4:223; Justin Dimick to George Thomas, July 25, 1862, *ibid.*, 287.

(12) Frank A. Flower, *Edwin McMasters Stanton: The Autocrat of Rebellion, Emancipation & Reconstruction* (1905; New York: AMS Press, 1973), 296.

(13) Andrew Johnson to President Abraham Lincoln, July 26, 1862, *ibid.*, 289.

(14) Andrew Johnson to P. H. Watson, assistant secretary of war, Aug. 3, 1862, *ibid.*, 333.

(15) James McPherson, *Battle Cry of Freedom* (New York: Oxford University Press, 1988), 304-5. See also Noel C. Fisher's *Recent Work, War at Every Door: Partisan Politics and Guerilla Violence in East Tennessee, 1860-69* (Chapel Hill: University Of North Carolina Press, 1997).

(16) John A. Dix to Secretary of War Stanton, July 29, 1862, *ibid.*, 308; Joseph H. Tucker to Adj. Gen. Lorenzo Thomas, July 30, 1862, *ibid.*, 313. See also Jas. A. Ekin, assistant quartermaster to Edwin Stanton, Aug. 2, 1862, *ibid.*, 331. Ekin asked Stanton point blank what to do with Southerners who refused to be exchanged, indicating that somewhere between a thousand and twelve hundred men, mostly from Tennessee, fell into this category.

(17) This article is part of a larger work that examines desertion among Georgia troops during the war. The pull from home, particularly families and communities in northern Georgia drove desertion among Georgia's soldiers. Sherman's invasion of Georgia in 1864 created a safe haven for these soldiers to return to, free of Confederate

military and civilian control.

(18) David Tod, governor of Ohio, to Edwin Stanton, Aug. 1, 1862, *ibid.*, 321; C. P. Wolcott to David Tod, Aug. 2, 1862, *ibid.*, 328.

(19) Maj. John J. Mudd to Abraham Lincoln, Aug. 3, 1862, *ibid.*, 334-35.

(20) Grant's correspondence cited herein clearly argues that exchanging prisoners turned the war into a contest of exhaustion. Other historians argue the exchange system collapsed because the South improperly activated soldiers not formally exchanged and insisted on treating black prisoners as slaves and not soldiers. See McPherson, *Battle Cry of Freedom*, 792-93. For an argument that military expediency drove Grant's decision to stop the three year exchange policy in April 1864 see Shelby Foote, *The Civil War: A Narrative*, vol. 3, *Red River to Appomattox*, (N.Y.: Vintage, 1986), 131.

21) Proclamation Granting Amnesty to Soldiers Absent without Leave, Mar. 10, 1863, in *The Collected Works of Abraham Lincoln*, 9 vols., ed. Roy P. Basler (New Brunswick, N.J.: Rutgers University Press, 1953) 6:132; Lincoln To Erastus Coming and Others, June 12, 1863, *ibid.*, 264, 266. As far back as the Romans, military commanders recognized that desertion depleted an army's numerical strength and undermined its morale. Even in nineteenth-century America the timeless maxim of the roman military historian Renatus Vegetius held true: "To seduce the enemy's soldiers from their allegiance and encourage them to surrender is of especial service, for an adversary is more hurt by desertion than by slaughter." Vegetius, *De Re Militari* (A.D.378), In Jay M. Schafritz, *Words On War*, (New York: Simon & Schuster, 1991), 98.

(22) Capt. H. W. Freedley to William Hoffman, Aug. 16, 1862, OR, ser. 2, vol. 4:401.

(23) E. H. Sutton, 24th Georgia Volunteers, *Civil War Stories* (Demorest, Ga.: Banner Printing, 1907), 61-63 in microfilm RG 3-2741, drawer 283, box 41, GDAH, Sutton missed slightly on his identification of the biblical inscription. It was from the New Testament, 1 John, 2:19. However, the anonymous author clearly understood the passage and its application to desertion. The inscription refers to deniers, or non-believers in Christ. It seems applicable to deserters, or non-believers in the Confederacy, and their willingness to swear the oath and leave prison and their former

comrades behind.

(24) P. H. Watson, assistant secretary of war to Captain James A. Ekin, Indianapolis, Indiana, Aug. 4, 1862, OR, ser. 2, vol. 4:336; Andrew Johnson to Gen. George Thomas, Aug. 9, 1862, *ibid.*, 362; William Hoffman to Thomas, Aug. 9, 1862, *ibid.*, 365; Thomas to Maj. H. S. Burton, commanding officer, Fort Delaware, Aug. 9, 1862, *ibid.* Johnson appointed former Tennessee governor William Campbell as official commissioner to visit each camp. Campbell's task was to examine and liberate qualified Tennessee prisoners who met the conditions he set. Campbell would then report to Stanton those prisoners he had paroled and the conditions of their release. The only conditions apparent from the correspondence came directly from Andrew Johnson indicating only enlisted men could take the oath. Once Campbell approved a release, the prison camp commander had to send a list of paroled prisoners to the military commander of his district or to the War Department.

(25) William Hoffman to Capt. H. W. Freedley, Aug. 9, 1862, *ibid.*, 365; J. A. Ekin to Edwin Stanton, Aug. 14, 1862, *ibid.*, 391. Ekin's letter to Stanton indicates Hoffman's telegraph received on August 13, 1862, and the new order had stopped Campbell, Johnson's commissioner, Campbell from continuing his assignment. War Department Adjutant General's Office: General Orders No. 107 Issued by E. D. Townsend at the Command of Gen. H. Halleck, Aug. 15, 1862, *ibid.*, 393; Ekin to Stanton, Aug. 19, 1862, *ibid.*, 410.

(26) William Hoffman to Maj. W.S. Pierson, Sandusky, Ohio, Aug. 14, 1862, *ibid.*, 338. Hoffman indicated he was unsure if release policy of prisoners would continue but acknowledged that many would remain north. Gen. George Thomas to Military Governor Andrew Johnson, Aug. 9, 1862, *ibid.*, 364; J. A. Ekin to Montgomery Meigs, quartermaster general, Aug. 13, 1862, *ibid.*, 387. Both letters inquire as to the logistical problems of transporting released prisoners who took the oath. H. W. Freedley to William Hoffman, Aug. 12, 1862, *ibid.*, 380; Maj. Joseph Darr to Col. William Hoffman, Aug. 14, 1862, *ibid.*, 392. Freedley showed concern that other loyal Confederate prisoners threatened those that took the oath. Ekin expressed the same fear in a letter to Edwin Stanton on August 15, 1862 Ekin suggested the Tennesseans should have been discharged or at least removed from the same area as the loyalists, due to the bitterness of feeling expressed by the loyal prisoners (see *ibid.*, 396). Darr recognized that those staying north, mostly Virginians, would also need some paperwork to prevent their re-arrest in the north.

(27) Lt. Col. William S. Pearson to Col. I. C. Bassett, Jan. 28, 1864, with Endorsements from Bassett to his Commander H. D. Terry, Jan. 30, 1864, and from Terry to Hoffman, Jan. 30, 1864, OR, ser. 2, vol. 6:903; William Hoffman to H. D. Terry, Feb. 15, 1864, *ibid.*, 954.

(28) J. Darr to Governor F. H. Pierpoint of Virginia, Aug. 22, 1862, *ibid.*, 4:422; William Hoffman to Maj. J. G. Fonda, Camp Butler, Springfield, Illinois, Sept. 1, 1862, *ibid.*, 479; Hoffman to Col. Jesse Hildebrand, commanding officer, Alton Prison, Alton, Illinois, Sept. 3, 1862, *ibid.*, 485.

(29) In areas under Confederate military control the Southern commanders took steps to discourage desertion. Braxton Bragg, commander of the Army of Tennessee believed men actually straggled from the ranks in order to fall into Union hands, be paroled, and go home. In September 1862, Bragg issued an order treating straggling as desertion. Any paroled prisoner coming into his control would be held in the army until formally exchanged and returned to active duty. As 1862 ended, the Union's collection of informal, ad hoc policies, although internally troublesome, nevertheless began to take a toll on the Confederacy. See John C. Stiles, Brunswick, Georgia, "In The Years of the War: Trying to Get Paroled," *Confederate Veteran Magazine* 26 (1918): 77. The Confederate civilian authorities also realized that desertion could severely damage the war effort, and in August 1862, the Confederate Congress began drafting laws that punished AWOL (Absent Without Leave) officers as deserters. Senate Resolution from 1st Confederate Congress, 2d Session, Senate, Wednesday, Aug. 20, 1862, *Southern Historical Society Papers* (Millwood, New York: Kraus Reprint, 1925), 45:184.

(30) Capt. Stephen E. Jones, Headquarters, Louisville, Ky., to William Hoffman, Nov. 22, 1862, *ibid.*, 745. W. Hoffman to Maj. Peter Zinn, Dec. 9, 1862, OR, ser. 2, vol. 5:26. Orders Zinn to stop releasing prisoners from Camp Chase, Ohio.

(31) Col. Henry Dent, provost marshal-general, to Capt. H. W. Freedley, Dec. 1, 1862, *ibid.*, 36; Lt. Col. F. A. Dick, provost marshal-general, to William Hoffman, Dec. 3, 1862, *ibid.*, 21-23.

(32) Captain H.W. Freedley to William Hoffman, Dec. 8, 1862, *ibid.*, 51.

(33) J. T. Boyle to H. G. Wright, Nov. 30, 1862, *ibid.*, 28-29.

(34) H. G. Wright to Gen. George Thomas, Dec. 5, 1862, *ibid.*, 27;

Henry Dent to J. T. Boyle, Dec. 15, 1862, *ibid.*, 85-86. Dent referred to General Orders No. 31, issued by General Rosecrans, which Dent interpreted as an invitation for Confederate soldiers to desert. The Order stated that deserters could enter into a bond of good conduct that offered not only freedom but protection, so long as they faithfully observed the laws of the government and comported themselves as good citizens. Lt. Col. W. H. Ludlow, assistant inspector general, Fort Monroe, to W. Hoffman, Dec. 27, 1862, *ibid.*, 127; U.S. Grant to Confederate General John Pemberton, Dec. 15, 1862, *ibid.*, 83.

(35) W. Hoffman to Capt. S. E. Jones, Dec. 3, 1862, *ibid.*, 19; W. Hoffman to P. Zinn, Dec. 4, 1862, *ibid.*, 26; H. G. Wright to W. Rosecrans, Dec. 6, 1862, *ibid.*, 32; W. Hoffman to F. A. Dick, Dec. 12, 1862, *ibid.*, 74; General Orders No. 36 issued by Acting Asst. Adj. Gen. Thomas G. Beaham on behalf of Maj. Gen. G. Granger, Dec. 19, 1862, *ibid.*, 101; H. G. Wright to J. T. Boyle, Dec. 22, 1862, *ibid.*, 107.

(36) General Orders No. 5, Headquarters, Army of Kentucky, Jan. 12, 1863, Maj. Gen. Gordon Granger, *ibid.*, 173.

(37) *Ibid.* For Rosecrans Order see note 34.

(38) The prison situation in 1863 remains somewhat unclear; the correspondence cited herein, however, indicates overcrowding was a problem. Bruce Carton devotes little attention to prisons in his classic works but indicates that real overcrowding in the North, particularly at Elmira, New York, occurred in 1864. Bruce Carton, *Bruce Carton's Civil War: Three Volumes in One*, (New York: Fairfax Press, 1984), 621-23. McPherson cites William B. Hesseltine, *Civil War Prisons: A Study In War Psychology* (Columbus: Ohio State University Press, 1930), for the proposition that during the ten month period from July 1862 through May 1863, the exchange system worked well enough to keep the prisons empty, except for the sick and wounded. McPherson, *Battle Cry. of Freedom*, 791-92. The letters from the Northern department and prison commanders suggest otherwise.

(39) Maj. Gen. Samuel Curtis to Maj. Gen. Henry Halleck, Jan. 24, 1863, OR, ser. 2, vol. 5:207; Halleck to Curtis, Jan. 25, 1863, *ibid.*, 214; F. A. Dick to General Samuel Curtis, Jan. 28, 1863, *ibid.*, 223-24; J. Ammen, brigadier general of Volunteers, to William Hoffman, Jan. 31, Feb. 2, 1863, *ibid.*, 235. Ammen was at Camp Douglas, where winter conditions combined with illness, poor clothing, and inadequate shelter to create a miserable situation,

which Ammen wanted to relieve by releasing those willing to swear allegiance. William Hoffman to Col. Henry Dent, Feb. 10, 1863, *ibid.*, 263; William Hoffman to Stanton, Mar. 18, 1863, *ibid.*, 361; William Hoffman to Col. Henry Dent, Apr. 11, 1863, *ibid.*, 465; William Hoffman to Stephen E. Jones, May 4, 1863, *ibid.*, 554; William Hoffman to Gen. William Rosecrans, June 3, 1863, *ibid.*, 736; William Hoffman to Gen. J. H. Martindale, Jan. 13, 1863, *ibid.*, 176.

(40) William Hoffman to Edwin Stanton, Mar. 24, 1863, *ibid.*, 390-91; William Hoffman to J. Mason, Apr. 23, May 11, 1863, *ibid.*, 533, 593; Memorandum (apparently to the file) George Sawin, lieutenant and quartermaster, 58th Illinois Regiment, undated. This appears among correspondence date 2/4/63 and 2/7/63; I can only assume it was written about the same time. Sawin was so swayed by the argument of the Illinois Prisoners that he remarked "but for misfortune of locality would ere this be found in the ranks of loyal regiments."

(41) H. G. Wright to Brig. Gen. White, Feb. 26, 1863, *ibid.*, 299. Confederate authorities likewise tried to encourage desertion among Union troops and went so far as to offer deserters a place to relocate within Virginia and work as free laborers. Many of these Union deserters took jobs at the Tredegar iron works in Richmond, Virginia. Jno H. Winder to Secretary of War James A. Seddon, Feb. 28, 1863, *ibid.*, 841.

(42) Flower, Edwin McMasters Stanton, 232.

(43) William Hoffman to E. Stanton, June 13, 1863, Endorsed by War Dept. As Approved, June 18, 1863, OR, ser. 2, vol. 6:14; William Hoffman to Gen. Ambrose Burnside, Comm. Dept. of Ohio, June 20, 1863, *ibid.*, 31; Gen. Henry W. Halleck to Col. W. H. Ludlow, Fort Monroe, July 7, 1863, *ibid.*, 91; Gen. Henry W. Halleck to Gen. Ambrose Burnside, Aug. 5, 1863, *ibid.*, 177; William Hoffman to Maj. Gen. Robert A. Schenk, July 11, 1863, *ibid.*, 103; Robert A. Schenk to Brig. Gen. W. W. Moms, Fort McHenry, July 11, 1863, *ibid.* For evidence that decisions as to which prisoners would be allowed to take the oath and enlist remained with the War Department, see "Lincoln to Benjamin F. Butler, January 2, 1864," Basler, *Collected Works of Lincoln*, 7:103.

(44) William Hoffman to Brig. Gen. A. Schoepf, Aug. 4, 1863, OR, ser. 2, vol. 6:175; Similar letters went to Maj. Gen. John Schofield, commander of the Department of Missouri, and Maj. Gen. William Rosecrans, adding only the provision approved by Stanton, that Rebels impressed into the service could take the oath and enlist in the

Federal army. William Hoffman to Maj. Gen. John M. Schofield, Aug. 5, 1863, *ibid.*, 178; William Hoffman to Maj. Gen. William Rosecrans, Aug. 7, 1863, *ibid.*, 186.

(45) General Orders No. 126: Headquarters, Department of Ohio, Aug. 8, 1863, *ibid.*, 190; E. A. Hitchcock to Maj. Gen. Ambrose Burnside, Aug. 15, 1863, *ibid.*, 206; Maj. Gen. William Rosecrans to William Hoffman, Aug. 16, 1863, *ibid.*, 207. For copy of General Orders 175 issued by Rosecrans, see OR, ser. 1, vol. 23, 2:184. For the War Department's opinion on Rosecrans's suggestion, see E. A. Hitchcock's memorandum to Secretary of War, Aug. 29, 1863, *ibid.*, ser. 2, vol. 6:207-8. Rosecrans's concerns over pockets of Confederate deserters had merit. What Rosecrans identified in Tennessee, Jubal Early experienced in Virginia a year later. After the war Early described "very large numbers of deserters from our army who had taken refuge in the mountains between the counties of Loudoun and Farquair, and the Valley, who claimed to belong to Mosby's command whenever questioned by any of our officers." "The Advance on Washington in 1864, Letter from Jubal Early to the Editor of the Republican," in *Southern Historical Society Papers* 9 (1881): 302 (hereafter cited as SHSP).

(46) General Orders No. 286, War Department, adjutant general's office, Aug. 17, 1863, OR, set. 2, vol. 6:212.

(47) Lincoln to Edwin Stanton, Aug. 19, 1863, Basler, *Collected Works of Lincoln*, 6:398; Benjamin P. Thomas and Harold M. Hyman, *Stanton: The Life and Times of Lincoln's Secretary of War* (New York: Knopf, 1962), 244. Basler's *Collected Works of Lincoln* contains 148 pages of letters either from Lincoln or to Lincoln regarding Union deserters. In almost every case the correspondence involves Lincoln's desire to commute or at least delay a death sentence handed down for desertion. See Basler, *Collected Works of Lincoln*, index, 69-70.

(48) William Hoffman to Edwin Stanton, Aug. 26, 1863, *ibid.*, 227-28.

(49) *The Register of Confederate Deserters, 1863-1865*, books 1 and 2, National Archives, micro-film group 598, roll 8.

(50) William Hoffman to William Rosecrans, Aug. 29, 1863, OR, set. 2, vol. 6:239-40; William Hoffman to Maj. Gen. J. G. Foster, Aug. 30, 1863, *ibid.*, 2; A notation at the bottom indicated that copies had been sent to Generals Burnside, Grant, Dix, Schofield, Banks, Gilmore, Brooks, Morris, and Kelley. On September 3, 1863, the same letter went to Gen. George Meade, commander of the Army of the

Potomac; General Cadwalader in Philadelphia; and General Heitzelman commanding the Washington defenses (William Hoffman to Maj. Gen. George Meade, Sept. 3, 1863, *ibid.*, 256); General Orders No. 162, Headquarters Department of Ohio, Gen. Ambrose Burnside commanding, *ibid.*, 319-20.

(51) In December 1863, the Confederate Congress passed a law designed to prevent not only aiding and abetting but procuring desertion. Entitled "An Act to Prevent the Procuring, Aiding and Assisting of Persons to Desert From the Army of the Confederate States, and for other purposes," the bill stated: "That every person not subject to the rules and articles of war who shall knowingly procure or entice a soldier, or person, enrolled for service in the army of the Confederate States to desert, or shall aid or assist any deserter from the army, or any person enrolled for service, to evade their proper commander or to prevent their arrest, to be returned to service, or shall conceal or harbour any such deserter, or shall purchase from any soldier or person enrolled for service any portion of his army equipments rations or clothing, or any property belonging to the Confederate States, or of any officer or soldier of the Confederate States, shall upon conviction before the District Court of the Confederate States having jurisdiction of the offence, be fined not exceeding \$1,000 and be imprisoned not exceeding two years."

As the South became desperate to maintain the integrity of its army, the laws governing civilian conduct grew more stringent. The Confederate legislature removed a legal impediment to proving the crime of aiding and abetting desertion. Under the new law, if the government proved a civilian helped a Confederate soldier, the general reputation within the community that the soldier had deserted sufficed to meet the government's burden of proof that the soldier in question was a deserter. "Reputation Evidence of Desertion, Feb. 10, 1865," *SHSP* 52 (1959): 326.

(52) Halleck to Major General Foster, Sept. 23, 1864, *OR*, ser. 2, vol. 7:865-66; Foster to Halleck, Oct. 24, 1864, *ibid.*, 1016.

(53) Brig. Gen. G. Marston, commander, Point Lookout Prison, Oct. 7, 1863, *ibid.*, 356-57.

(54) McPherson, *Battle Cry of Freedom*, 791-92.

(55) Annual Message to Congress, Dec. 8, 1863, Basler, *The Collected Works of Lincoln*, 7:52-53.

(56) Lincoln to Hon. Ogden Hoffman, U.S. district judge, Dec. 15, 1863, *ibid.*, 67-68.

(57) Lincoln to John G. Foster, Jan. 27, 1864, James Longstreet to John G. Foster, Jan. 3, 1864, John G. Foster to James Longstreet, Jan. 7, 1864, *ibid.*, 153-54; Lincoln to Edwin Stanton, Feb. 10, 1864, *ibid.*, 176-77.

(58) J. Holt, judge advocate general, to Ira Hams, Oct. 19, 1863, OR, set. 2, vol. 6:394-95.

(59) U. S. Grant to Stanton, Aug. 19, 1864, OR, ser. 2, vol. 7:614-15.

(60) Lincoln to Edwin Stanton, Mar. 18, 1864, Basler, *Complete Works of Lincoln*, 7:254-55; Proclamation About Amnesty, Mar. 26, 1864, *ibid.*, 269; Thomas and Hyman, *Stanton: The Life and Times*, 388-89.

(61) Circular No. 31, Aug. 31, 1864, by Command of Lt. Gen. U. S. Grant, and Special Orders No. 3, Jan. 4, 1865 by command of Lt. Gen. U. S. Grant, OR, ser. 1, vol. 46, 2:828-29.

(62) Address By Robert Stiles at the Dedication of the Monument to the Confederate Dead of the University of Virginia, June 7, 1893, SHSP 21 (1893): 32.

(63) Thomas and Hyman, *Stanton: The Life and Times*, 390-91.

(64) Annual Message to Congress, Dec. 6, 1864, Basler, *Collected Works of Lincoln*, 8:152.

(65) Lincoln to Daniel E. Sickles, Feb. 15, 1864, *ibid.*, 7:185.

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