1983

The just objects of war: Conduct of Union troops toward non-combatants and private property in Alabama, 1862--1865

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https://dx.doi.org/doi:10.21220/s2-egsz-gg70

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THE JUST OBJECTS OF WAR:
CONDUCT OF UNION TROOPS TOWARD
NON-COMBATANTS AND PRIVATE PROPERTY
IN ALABAMA, 1862 - 1865

A Thesis
Presented to
The Faculty of the Department of History
The College of William and Mary in Virginia

In Partial Fulfillment
Of the Requirements for the Degree of
Master of Arts

by
Ronald E. Colvin
1983
This thesis is submitted in partial fulfillment of the requirements for the degree of Master of Arts

Ronald E. Colvin

Approved, December 1983

Ludwell H. Johnson, III
M. Boyd Comer, Jr.
James P. Whittenburg
DEDICATION

This paper is dedicated to four individuals. Without the guidance and criticism of Professor L. H. Johnson this paper could not have been begun or finished. Martha Colvin, through her gentle reminders, saw that this paper was indeed finished in less than six years. The author is also indebted to Pauline and Ed Colvin, without whose support this paper would not have been possible.
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ABSTRACT

The purpose of this paper is to examine Union conduct in Alabama toward non-combatants and private property.

The status of international law and the United States Army's experience with and regulation of conduct has been surveyed. This survey established a standard to compare with the conduct in Alabama.

General histories of the war, Union company histories and personal histories were consulted to determine what took place in Alabama.

Generally, conduct in Alabama did not meet the standard laid down by international law or even Army regulations. No single factor appeared to be the major cause, although the use of a largely non-professional body of troops was probably the main reason for such general misconduct.

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THE JUST OBJECTS OF WAR
INTRODUCTION

Throughout history non-combatants have suffered during wars, even though they take no active part in the hostilities. Western civilization has recognized that these citizens and their property deserve protection, in accordance with standards known collectively as international law. This paper will study the conduct of the Union army in Alabama during the Civil War.

To accomplish such a study it is important to understand standards of conduct followed during the mid-nineteenth century. Looking at the record from today's perspective, one's interpretation may be colored by the United States' recent experiences with war, i.e. World War II, Korea and Viet Nam. To better appreciate the Union field soldier's position a brief look at international law as it was understood at the time is included. This is not to suggest, however, that the common soldier was familiar with international law and guided his actions accordingly. More important to the understanding of the Union soldier's perspective is an examination of United States Army regulations for the period, as well as the army's experience in the Mexican War, which guided many Federal officers' decisions on troop conduct during the Civil War.

Unlike Virginia, Tennessee, and Mississippi, Alabama did not see large-scale combat. Instead, a Union army was faced by small bands of home guards and cavalry, which were quickly labeled guerrillas. Alabama was visited by Union forces for two reasons; to secure the Tennessee Valley as a transportation
corridor for the Union, and to raid the interior portions of the state in order to destroy sources of supplies for the Confederate army.

Conduct will be examined in light of the two different Union objectives and the different tactics employed to accomplish them. The Tennessee Valley saw long periods of occupation, while large cavalry raids of short duration were employed to strike into the heart of Alabama. The effect on Federal forces of a large population with Unionist sentiment will also be examined.
Chapter I

International Law

At the time of the Civil War the United States had no codified rules of conduct governing the treatment of civilians and private property. International law, however, provided a loose code of conduct for belligerents.

A short definition of international law from the Encyclopaedia of the Social Sciences reads as follows:

International Law is a binding body of rules applied by and to states in their international intercourse. ...The sources or agencies by which the rules of international law are formulated are either usage, giving rise to custom, or positive agreement or treaties.¹

The origin of international law lies in the commercial and diplomatic intercourse of the ancient western civilizations, i.e., the Greeks, the Romans and the Jews. Their distinctions between friendly and hostile peoples, their treaties with other nations, their conduct of war, and their making of peace illustrate early principles of international law. Modern international law is most often traced to the writings of Hugo Grotius, 1583-1645, and his work De Jure belli ac pacis... A Dutch jurist and statesman, Grotius codified international law as it then existed. "The importance of Grotius' work lies in the fact that it exerted so profound an influence, not only on theory, but on practice."² International law grew by accepting, as precedents, rules adopted among the major powers in negotiated treaties of peace, or the decisions of prize courts and other bodies established to determine international legal relations.
It was during the sixteenth and seventeenth centuries that international law reached an important stage in its development. The treatises on international law by Grotius, Vitoria, Pufendorf and others also included laws of warfare. The idea that the power of the belligerent in waging war was not unlimited gained credence. The laws of warfare were developing within international law, and each war added to the precedent of what was considered humane and reasonable conduct. In 1818, the Congress of Aix-la-Chapelle formally recognized the law of nations as the basis for international relations. This same period saw the development of a basic tenet of modern international law. This was the principle that all nations were bound under a doctrine of international law, even though the precedent action involved other nations.

By the nineteenth century, international law had evolved into a mass of confusing rules, little understood by regular United States Army officers, let alone a volunteer private. During the Mexican War, United States Army officials often had to deal with questions concerning international law. One of the officers required to answer these questions was Brevet Captain Henry W. Halleck. He served in California as Secretary of State under Generals Mason and Reily, and as chief of staff of General Burton's operations in Lower California. His service as aide-de-camp to Commodore Shubrick and as lieutenant-governor of Mazatlan gave him added experience with international law.

Halleck, a West Point graduate, resigned from the regular army in 1854 and opened what was to become one of the
leading law firms in California. Between 1854 and the outbreak of the Civil War, he wrote several works dealing with law and military tactics. In 1861, he published a compendium of international law for officers in the army and navy. Halleck relied on his practical experience in the Mexican War as well as the major European treatises.

In August, 1861, he was commissioned a Major General in the regular United States Army. In 1862, he was made military advisor to the President with the title of General-in-Chief, a position he held for almost two years and from which he was able to influence the army's adherence to the rules of international law. In March of 1864, he was named Chief of Staff of the Army, a position concerned mainly with office work and more compatible with his organizational talents. Halleck's treatise, entitled *International Law*, served to illustrate the position of the United States government on standards of military conduct, and particularly the United States Army's understanding of international law at the onset of the Civil War. Its ideas continued to be influential throughout the war.

International law had long recognized a difference between combatants and non-combatants. Although the nationalistic warfare of the Napoleonic era had confused the issue, there remained a definite standard. Halleck reported:

Thus, while we may lawfully kill those who are actually in arms and continue to resist, we may not take the lives of those who are not in arms, or who, being in arms, cease their resistance and surrender themselves into our power.⁵
As a result of the *levee en masse* and nationalistic war, the idea of considering all inhabitants of the adversary nation as enemies, (no longer protected against the direct operations of war) gained in popularity. By 1861, however, thought on the subject had returned to protection of the non-combatant as an international legal obligation. In discussing those persons who were exempt from such operations, Halleck listed: "Feeble old men, women, and children, and sick persons..."⁶

Even though they were enemies and were subject to the army as members of a community at war, they were enemies who made no resistance. Halleck said, "We have no right to maltreat their persons, or to use any violence toward them, much less take their lives."⁷ Included in the list of persons with this right of protection in 1861 were several professions. As long as the persons remained non-combatants, members of the religious, educational, and agricultural professions as well as artists, laborers, and merchants were protected. In sum, Halleck believed that international law protected all those who took no part in war and made no resistance to the arms of the adversary nation.⁸

In discussing the rights of inhabitants of an occupied area, Halleck was more specific. He once again reaffirmed the principle of protection only for the non-combatant. He stressed the fact that once a person began to resist, protection ceased.

...if the peasantry and common people of a country use force, or commit acts in violation of the milder rules of modern warfare, they subject themselves to the common fate of military men, and sometime to still harsher treatment.⁹
As long as they remained non-combatants, they were to be allowed the enjoyment of their property and the pursuit of their vocation. However, Halleck and international law left a "loop-hole" for the rights of the military commander. Halleck wrote that if the commander had any reason to mistrust the inhabitants, he had a right to disarm them and to require security for their good conduct. Halleck also considered it proper to imprison inhabitants to prevent them from taking up arms or in order to weaken the enemy. He considered it permissible to confine even women and children if circumstances, as determined by the commander, rendered such an action necessary "in order to secure the just objects of war." 

Military commanders had considerable leeway. Repressive measures against a populace could be justified by military necessity. Each commander could have his personal view of what each situation required.

In some cases the only guaranteed right of the non-combatant was life. The military commander, however, was not entirely free to do as he chose. He had to justify his repressive actions, or the enemy might carry out reprisals, or he might face public condemnation under "moral law".

Concerning the subject of property in areas coming under the control of a belligerent armed force, one has to deal with a long history of changing principles. The ancient practice gave the invading belligerent the right of seizure and confiscation of all private property. These rights were modified through the years until plunder and wanton destruction were condemned. By 1861, certain types of property were...
recognized as being exempt from capture. Also, compensation for the requisition of private property was a universal principle, but not always followed by the soldiers in the field.

However, there were exceptions to this "rule" of compensation.

The modern usage is, not to touch private property on land, without making compensation, except in certain specified cases. These exceptions may be stated under three general heads: 1st, confiscations or seizures by way of penalty for military offenses; 2d, forced contributions for the support of the invading armies, or as an indemnity for the expenses of maintaining order, and affording protection to the conquered inhabitants; and 3d, property taken on the field, or in storming a fortress or town.11

The laws of warfare relied to a great extent on the morality of the individual commander to determine what was correct and proper conduct toward non-combatants and private property. However, it did give the commander several guidelines to follow concerning the correct treatment of property. Exempted from operations of war were works of art, state papers, public archives, historical records and legal documents. Also, several structures were included in the exemption. These were such buildings that were devoted to civil purposes only, those of religious character, public edifices and all monuments of art and repositories of science. Halleck stated that such destruction would not aid the war effort and, on the contrary, would cause the populace to harbor resentment that would last long after the war.12

Recognizing that excesses are committed during the war, international law, combined with the American experience
in Mexico, led Halleck to devise a formula for fixing responsibility. Recalling the experience of trying to control volunteer troops in Mexico, Halleck placed them in a somewhat separate category, seemingly to protect the honor of the regular army. He stated:

It is true that soldiers sometime commit excesses which their officers cannot prevent; but, in general, a commanding officer is responsible for the acts of those under his orders, unless he can control his soldiers, he is unfit to command them. The most atrocious crimes in war, however, are committed by militia, and volunteers, suddenly raised from the population of large cities, and sent to the field before the general has time or opportunity to reduce them to order and discipline. In such cases the responsibility of their crimes rests upon the state which employed them, rather than upon the general who is, perhaps, unwillingly obliged to use them.13

In many cases, excesses committed by soldiers in the field resulted from living off the land, a practice still prevalent in the mid-nineteenth century. During the Civil War, great advances were made in the science of logistics. Federal quartermasters prided themselves on the quantity and quality of supplies provided the troops. Railroads were utilized to a great extent for the swift supply of the armies, but they were often inadequate, forcing supplemental local "requisitions". In many cases, however, the army simply made it a policy to live off the land. Recognizing the dangers of unregulated foraging and the power of an army to confiscate as it pleased, international law dealt with the subject at length. Halleck, in compiling his findings, wrote:

The evils resulting from irregular requisitions and foraging for the ordinary supplies of an army, are so very great and so generally admitted that
it has become a recognized maxim of war, that the commanding officer who permits indiscriminate pillage, and allows the taking of private property without strict accountability, whether he be engaged in offensive or defensive operations, fails in his duty to his own government, and violates the usages of modern warfare.¹⁴

Halleck made it clear that due restitution should be made to the victims of pillage by deductions from the pay and allowances of the corps which committed the excess. If, however, pillage was the result of the army ordered into circumstances where proper logistical support was not possible, responsibility was transferred to the government, as it had failed to make proper provision for the support of its troops or had required services which could not be performed without injury to the inhabitants of the hostile country.¹⁵

Even though Halleck cleared the commander of the responsibility for such action in the above mentioned circumstances, he clearly disapproved generally of the practice. He advocated the maintenance of a regular magazine for the subsistence of an army. Recognizing that this was not always possible, and knowing that forced contributions was still a recognized right, Halleck nevertheless recommended that a cautious policy should be declared and just compensation made for items taken. International legal thought had come to see the consequence of individual foraging as "universal pillage, and a total relaxation of discipline, the loss of private property and the violation of individual rights".¹⁶
Clearly a thin line was drawn between what was con­sidered just and unjust in the process of finding subsist­ence for an army, but certainly a commander was obligated to be in control of his men and restrain all individual con­fiscation. Admittedly, international law in 1861 left a great deal of uncertainty. One restriction upon the in­vading army, however, was very clear, as Halleck found in his research. "There is no doubt, whatever, respecting its [an enemy's property] waste and useless destruction. This is forbidden alike by law of nature, and the rules of war."17

Another aspect of property in war dealt with by inter­national law was the right of title to captured material. Soldiers had long considered the booty captured during the course of a campaign as their personal property. This arose out of the practice in previous wars in which such booty was considered part of the soldiers' compensation. With the rise of nationalistic armies, soldiers were regularly pro­vided subsistence and monetary compensation. This develop­ment caused international legal thought to advocate the following principle in 1861.

All captures in war, whether conquests, prizes or booty, naturally belong to the state in whose name, and by whose authority they are made. It alone has such claims against the enemy as will authorize the seizure and conversion of his property; the military forces who make the seizures are merely the instruments of the state, employed for this purpose; they do not act on their individual re­sponsibility, or for their individual benefit. They, therefore, have no other claim to the booty or prizes which they may take, than their govern­ment may see fit to allow them.18

International law concerning troop conduct was not al­ways clear. Generally speaking, the invading army had many
rights over the inhabitants, but "moral law" restricted their implementation, except under obvious hostile conditions. Along with the rights an invading army possessed, it also had many duties to the subjugated populace. It had the responsibility of providing a government under which non-combatants could pursue their occupations in as nearly normal conditions as possible. Wanton destruction and pillage were clearly condemned, responsibility lying not only with the commander, but with the nation-state.

In summing up the correct policy toward an invaded or occupied land, Halleck quoted Emmer de Vattel.

The general rule by which we should regulate our conduct toward an enemy, is that of moderation, and on no occasion should we unnecessarily destroy his property. 'The pillage and destruction of towns,' say Vattel, 'the devastation of the open country, ravaging and setting fire to houses, are measures no less odious and detestable, on every occasion when they are evidently put into practice without absolute necessity, or at least very cogent reasons. But as the perpetrators of such outrageous deeds might attempt to palliate them under pretext of deservedly punishing the enemy, be it here observed that the natural and voluntary law of nations does not allow us to inflict such punishment, except for enormous offences against the law of nations.\(^19\)

Overshadowing the American Civil War, though, was the debate as to whether international law actually applied. Many, including Lincoln, believed that only municipal law applied. The South was seen as a rebellious population usurping federal power on federal territory and thus to be suppressed in terms of criminal law. They saw the Confederates as rebels and eligible for prosecution as traitors and murderers. Halleck did not deal extensively with civil war in *International Law*, but the interpretation one ob-
tained was that a situation like that found in the United States 1861-1865 should have been termed a rebellion. Emmer de Vattel, a Swiss jurist whose The Law of Nations was the most widely quoted foreign treatise in the United States, was somewhat more generous in application of international law for such situations. He wrote in 1793:

When a party is formed in a state, who no longer obeys the sovereign, and are possessed of sufficient strength to oppose him, or when, in a republic, the nation is divided into two opposite factions, and both sides take up arms, this is called Civil War. A civil war breaks the bands of society and government, or at least suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. Those two parties, therefore, must necessarily be considered as thenceforward constituting, at least for a time, two separate bodies, two distinct societies. They stand therefore in precisely the same predicament as two nations, who engage in a contest, and, being unable to come to an agreement, have recourse to arms.

Many did not view the situation in this manner, they assumed that to apply the term "civil war" and the jurisdiction of international law to the conflict would mean recognizing the Confederate government as legitimate. It was not until the first battle of Manassas, when prisoners were taken by the Confederates, that the questions was addressed seriously. Eventually, Lincoln was convinced that granting the rules of war was not a tantamount to recognizing legitimacy. "Thus it may be said that the rights assumed in occupied regions of the South were the recognized rights of military occupation plus that authority which the Union government exerted in the resumption of Federal functions and
in the temporary assumption of State functions while awaiting the establishment of 'loyal' State governments."\(^{22}\)
The conflict was termed an insurrection by the Federals; under international law, rebels could be tried for high treason. Lincoln's position was compromised by the fact that he had, according to contemporary international law, recognized the Confederacy's belligerent rights when proclaiming a naval blockade of the Southern coast on April 19, 1861.
Chapter II

United States Army Heritage

The Union army was not one that was highly versed in the mysteries of international law. Much of it was made up of men taken from civilian life who had little concept of a soldier's duties, rights, or responsibilities. Many times the lack of clear cut army directives forced them to rely on their personal opinions or a known precedent in United States Army history.

The regular army's regulations and articles of war touched on the subject of proper conduct and were consistent with prevailing international thought. The problem was that the bulk of the federal army was made up of volunteers, segregated organizationally from regular troops, who had little sympathy for the rules governing the professional soldier, especially if the rules appeared to delay the defeat of the "secesh".

The Articles of War for the army dated from 1776. These general rules of conduct were revised in 1786 and 1806, with the latter revision remaining in effect for the Civil War. Two articles expressed themselves directly to the problem of troop conduct.

Article fifty-two stated in part:

Any officer or soldier...who shall quit his post or colors to plunder and pillage,...being duly convicted thereof, shall suffer death, or such other punishment as shall be ordered by the sentence of a general court-martial.¹

Article fifty-four addressed the question in more detail.

All officers and soldiers are to behave themselves
orderly in quarters and on their march; and whoever shall commit any waste or spoil, either in walks of trees, parks, warrens, fish-ponds, houses, or gardens, cornfields, enclosures of meadows, or shall maliciously destroy any property whatsoever belonging to the inhabitants of the United States, unless by order of the then Commander-in-chief of the armies of the said States, shall (besides such penalties as they are liable to by law) be punished according to the nature and degree of the offense by the judgement of a regimental or general court-martial.²

The Regulations for the Army of the United States also dealt with the subject of a soldier's conduct. Although primarily concerned with such practical aspects as how to properly dig a latrine or to define the proper feed for a pack mule, it was consistent and supportive of the Articles of War. Regulation 787 stated:

Plundering and marauding, at all times disgraceful to soldiers, when committed on the persons or property of those whom it is the duty of the Army to protect, become crimes of such enormity as to admit no remission of the awful punishment which the military law awards against offenses of this nature.³

The varied and confused opinions on the status of the citizens of the Southern Confederacy led many soldiers to believe that these regulations did not apply. However, the Judge Advocate General of the Army, in January of 1866, reviewed a case in which soldiers had been convicted under article fifty-four. They had "entered without authority the house of an inhabitant, and committed waste and seized and appropriated property therein."⁴ The Judge Advocate General held, "they were chargeable with a violation of this article; was evidently framed to punish such acts, under any circumstances, as breaches of military discipline."⁵
Although not clearly defined until after the war, it was apparent that the army had an obligation to maintain discipline. Halleck had stated in *International Law* such discipline included restricting individual actions by soldiers, no matter the identity or beliefs of the victim.

For far too many federal troops, army regulations and codes of conduct were almost as mysterious as international law. Experience and the consensus of junior officers' opinions guided the actions of many volunteer and conscript troops. The Mexican War proved to be the experience that many of the senior members of the armed forces used as a guide. The United States had its first taste of military government over an occupied area in that war. Many aspects, though, were not the same. In Mexico, the United States was dealing with an acknowledged foreign power, while during the Civil War it claimed to repressing a domestic rebellion. Nevertheless, experience with martial law and military courts was gained during the Mexican War that set a precedent for policy in the Civil War.

Congress in 1846 saw that hostile territory would soon be coming under United States military control. The question of what would be the proper governmental administrative policy for this territory was debated for several days. One position advocated was that of "no holds barred," but this was quickly rebutted.

The [Congress] relegated the realism of *Inter arma leges silent* to the distant barbarous past. They believed in progress and they defined civilization in moral terms. [Congress] did not go
beyond the vague generalization that American commanders in Mexico should be limited and controlled by the 'law of nations' and the affirmation that these laws stemmed ultimately from the fundamental moral law.6

However, it was left to the army to implement a formula for a government. General Winfield Scott on February 19th, 1847, laid the foundation for a definite policy. He declared martial law in all areas of Mexico that were occupied, and set up a system of military courts previously unknown to the United States military service. This was a military commission which could try both civilians and soldiers accused of criminal actions within the occupied areas. These provisions were part of General Orders No. 20,7 issued from Tampico. Also included in General Orders No. 20 were the offenses that would be tried in the tribunals.

Assassinations; murder; malicious stabbing or maiming; rape; malicious assault and battery; robbery; theft; the wanton desecration of churches, cemeteries or other religious edifices and fixtures, and the destruction, except by order of a superior officer, of public or private property, and such offenses.8

This order, though tailored for the specific needs of the Mexican situation, was a document which gave specific content to the vague term "laws of warfare" and provided for enforcement of those laws.

It was during the Mexican War that principles were devised to deal with guerrilla action. The long supply lines invited guerrilla attack. Scott's reaction was that it was the nearest alcalde's (mayor's) responsibility to deliver up the guilty. If he chose not to, the alcalde was to be fined
and any person known to belong to a guerrilla party could be summarily tried by three officers, and either flogged or executed. This plan did not satisfy those having to undergo the risks of attack and "in general, it was a tale of merciless atrocities followed by merciless reprisals." 9 Villages suspected of harboring the "banditti" were burned. In July, 1847, General J. E. Wool announced "that any guerrillas caught by him would be executed. In December, 1847, he issued his famous Order 11, which not only made the Mexican authorities and their towns responsible for all damages done, but required them to hunt down the 'brigands'." 10

With these, and similar actions, the principle was established that citizens residing near the scene of any guerrilla action were to be held responsible and suffer for them. At the time of the capture of Mexico City, General Scott held this theory of responsibility strongly.

Soon after the Americans entered it [Mexico City], Mexicans fired upon them from houses. Before long the First Alcalde issued this warning: 'The General-in-Chief [Scott] of the American forces which have occupied the city this morning has informed the Ayuntamiento [city council] that if within three hours, reckoned from the time this notice is posted, there is not complete cessation of the acts of hostility now being committed..., he will proceed with all rigor against the guilty permitting their goods and property to be sacked and razing the block in which are situated the houses from which the American troops are fired upon.'

...These warnings were not effectual, however; and General Worth wrote to his daughter, 'I caused the heavy guns to be turned against every house from which a shot came ... and after a few hours of such appliance, not regarding where or who it hit, quelled the dastardly villains.' 11

By the end of the Mexican War, the above principle had been accepted as policy by the United States Army and
was to be revived in the Civil War. Vattel in his classic work on international law, *The Law of Nations*, dealt extensively with guerrilla actions. Written in the late eighteenth century the 1817 edition did not mention such a policy or condone it under international law. Halleck, writing in 1861, from his interpretation of the Mexican War, stated: "It is a general law of war, that communities are accountable for the acts of their individual members."¹²

As General-in-Chief from July 1862 to March 1864, Halleck played a major role in determining the army's compliance with international law. A person whose opinion he came to rely upon for answers to many legal questions was Francis Lieber. A native of Prussia, Lieber had fought in the Waterloo campaign under Blucher and had been wounded in the engagement. After the war he joined and later became a leader in Friedrich Jahn's educational movement. Its philosophy emphasized the need for physical training and conditioning as an integral part of the educational process. It was during this period that Lieber joined several liberal student groups and came under suspicion in 1819 by the reactionary governing officials. He was refused admission to Prussian universities and the University of Heidelberg. Finally, after great effort, he matriculated at Jena University as a theology student, but soon switched to liberal arts and specialized in mathematics.

In 1827, Lieber came to the United States to teach swimming and gymnastics in Boston. Enthusiasm for the sports did not last, and his business failed after a year. He then
conceived the idea of an United States encyclopaedia. He convinced the firm of Carey, Lea and Carey to underwrite him and publish it, and Encyclopaedia Americana was born. This project afforded him the opportunity to move in the intellectual circles of the young nation and gain many friends and acquaintances. Among the former he counted Charles Sumner.

The year 1835 saw the reorganization of South Carolina College, and Lieber was offered the newly established chair of History and Political Economy. He remained at the college for twenty-one years and served from 1849 to 1851 as acting president. He wrote several essays and books while in South Carolina, among them were Political Ethics on political philosophy and Civil Liberty, a political science text book. Lieber was sharply critical of slavery, but he held a conservative view toward property rights. He believed only the States could legally deal with slavery, causing him to break with abolitionists and temporarily interrupt his friendship with Charles Sumner.

Lieber was unhappy living in South Carolina and jumped at the chance to fill the newly created chair of History and Political Economy at Columbia University in 1857. It was then that he joined the fledgling Republican Party. He was to remain at Columbia throughout the war, offering legal advice to anyone who would listen. After the war broke out, he renewed his friendship with Charles Sumner and became identified with "radical republicanism". Lieber corresponded with Attorney General Edward Bates on legal questions; but
Bates, a Whig, did not always follow his advice. The Trent affair in 1861 inspired Lieber to call for a congress of publicists and authorities on international law to draw up codes which would have the equivalent authority in international law as the treatises of Blackstone, Kent, and Story had in the realm of Common law. This idea came to naught however. It was also in 1861 that he revised his position on Federal rights over slavery, stating that Federal authority could abolish slavery.

Lieber had three sons who fought in the war, one for the South and two for the North. It was while he was on his way to visit one of the latter who was wounded at Fort Donelson, that he met General Halleck and initiated what was to become an extended correspondence.

Halleck knew of Lieber's interest in international law and its application to military situations. In 1859, Lieber had sought to introduce into West Point's curriculum, with the backing of then General-in-Chief Winfield Scott, a course on international law. This effort was rebuffed by West Point's commandant on the premise that the curriculum was already overcrowded. Halleck fully realized volunteer officers lacked army tradition, discipline, and professional concepts of the laws of war; West Pointers were little better off. No concise manual existed that could be used by an officer in the field. In 1862, Halleck asked Lieber to write a short essay on a particularly vexing problem, treatment of guerrillas. Army officers tended to classify anyone not in a large military organization as a guerrilla.
In August of 1862, Lieber presented his essay to General Halleck. Halleck read it, appreciated its conciseness, and gave it his approval, ordering 5000 copies printed for army distribution. It dealt with defining the different categories of guerrillas and the treatment to be accorded each. It did not mention community punishment for guerrilla actions, but dealt only with the individual punishment to be inflicted on the guerrilla. Partisans were a part of the regular army detached from the main body to engage in guerrilla warfare. Such persons were "part and parcel of the army, and as such, considered entitled to the privileges of the law of war..."\(^{13}\)

Other types engaged in guerrilla actions, be they brigands, deserters, or independent bands of the populace, were not to be accorded such a favor. When captured in open warfare, they would be treated as regular partisans until special crimes could be proved against them. These crimes included murder, the killing of prisoners, or the sacking of places.\(^{14}\) Lieber concluded that the law of warfare would not protect any bands who interrupted their normal non-combatant lifestyle with sporadic fighting.

Lieber's treatise was well received, and with greater areas of territory coming under occupation as the war progressed, a need was seen for a clear statement of relevant legal principles, as well as on the conduct of warfare. In November of 1862, Lieber drafted a formal letter to Halleck suggesting the President appoint a committee, with Halleck at its head, to study those questions on which the Articles
of War were silent. Halleck did not respond until early December when he wired Lieber to come to Washington to serve on a special board created by the War Department. This board, of which Lieber was the only civilian member, was assigned to draw up a code for land warfare. Lieber wanted to reform the entire military legal code, but was rebuffed by the other members. The board sent form letters to officers asking for suggestions; however, the response was very light. It fell to Lieber to do the actual work of drawing up a code.

Lieber quickly prepared a draft during the first few weeks of 1863. His works, lectures, newspaper clippings, tests on international law, and scholarly associates were relied upon as sources. In February, he brought the draft to Washington for approval. The Board decided that the draft should be printed with large margins and several blank pages in order that army officers and other critics could note suggestions. Again few responded; but those ideas that were received were incorporated into a new revision by Lieber. This version was sent to the Board for its inspection at the end of March. It was at this time Halleck suggested that Lieber add a section on civil war, rebellion, and insurrection. In April, 1863, the code was issued as General Orders, No. 100. "It was a conscious effort to carry into the office of the military governor the old American concept of a government of laws not of men. General Orders No. 100 was the first formal attempt on the part of a national government, either in Europe or in America, to translate the phrase 'laws
of war' into a developed code." The general order gave substance to international law, but was open to much interpretation. It did narrow the confines of previous interpretations so that great excesses could not be committed or proposed by a zealous military commander or a radical politician. It placed penalties on wanton violence and destruction, similar to those acts listed in Scott's order. "All robbery, all pillage or sacking, even after taking a place by main force, all rape, wounding, maiming, or killing of such inhabitants, are prohibited under penalty of death, or such other severe punishment as may seem adequate for the gravity of the offense."19

It listed types of property that were to have special protection. "Classical works of art, libraries, scientific collections, must be secured against all avoidable injury, even when they are contained in fortified places whilst besieged or bombarded."20 Non-combatants were also given rights under the military occupation. "Private citizens are no longer murdered, enslaved, or carried off to distant parts, and the inoffensive individual is as little disturbed in his private relations as the commander of the hostile troops can afford to grant in the over-ruling demands of a vigorous war."21 However, it did leave two loopholes that could negate the underlying humanitarian principles. They were military necessity and retaliation.

General Orders No. 100, while loosely codifying the laws of warfare, also followed United States Army precedent. It codified the custom of placing occupied territory under
martial law. Military rule and force took over the functions of government. Crimes were to be tried by military courts. Its issuance, half way through the war, gave the commander a somewhat clearer picture of how to treat the enemy's populace and property.

After its acceptance by the military, General Orders No. 100 was made applicable to the period of the entire war. The Judge Advocate General held that "where an accused is charged with a violation of the laws of war, as laid down in...General Orders No. 100...it is no defense that the actual offence for which he was tried was committed before the date of the order; the latter being merely a publication and affirnance of the law of war as it had previously existed."22 Thus, neither side could claim ignorance for not complying with the code anytime during the period of conflict.

Codes, like laws, however, were made to be broken. General Orders No. 100 while perhaps restraining some actions by no means halted all mistreatment. This can clearly be seen in a letter written by Major-General William T. Sherman, commander of the Department of the Tennessee, to Major R. M. Sawyer, Assistant Adjutant General, stationed at Huntsville, Alabama, in January, 1864. Major Sawyer had asked Sherman's opinion of how to treat inhabitants known or suspected to be hostile or "secesh". Sherman acknowledged that the Continental European rule was to confine war to the armies and not visit it upon the homes of families or private interests. But Sherman knew of other examples and precedents. He cited
particularly the English occupation of Ireland during the reign of William and Mary, when the natives were dispossessed of their property and a new population introduced.

Speaking directly to the situation in North Alabama, Sherman stated:

"I would advise the commanding officers at Huntsville, and such other towns as are occupied by our troops, to assemble the inhabitants and explain, self-evident propositions, and tell them that...

The Government of the United States has in North Alabama any and all rights which they choose to enforce in war—to take their lives, their homes, their lands, their everything—because they cannot deny that war does exist there, and war is simply power unrestrained by constitution or compact.

If they want eternal war, well and good; we accept the issue, and will dispossess them and put our friends in their places."

The Army acknowledged international law as the guideline to follow for codes of conduct. Those orders and codes emanating from the highest echelons of the Army, e.g., General Orders No. 100, closely emulated the ideals of international law and recommended harsh punishment for non-compliance. As one moves further from the libraries of the universities and the offices of the War Department, however, one does not find strict compliance with these orders. The following section will examine conduct in Alabama to see how it compares to the ideals found in international law and army directives.
Chapter III
The Union Army in Alabama

During the second week of February, 1862, three Federal gunboats commanded by Lieutenant S. L. Phelps, entered Alabama on the Tennessee River with the purpose of reconnoitering the Tennessee Valley. During its four days in Alabama, the expedition sailed as far as the shoals of Florence, where it was able to capture and destroy several partially constructed Confederate gunboats. Of particular importance was the discovery of virtually no organized Confederate resistance. Most of Alabama's troops were away, either on the Virginia front or with the Western Army in Tennessee. The main burden of defense in Alabama fell upon small mobile units of Confederate cavalry,¹ which the Federal chose to regard as guerrillas not entitled to any military rights.² The Federals also found a surprisingly strong Unionist sympathy among the inhabitants of Northern Alabama. Phelps was impressed with the strength of this sentiment and recommended recruiting this unexpected source of manpower for the Union Army.

The first encounter with a Union force left Alabama's private citizens optimistic. The local Confederate report of the expedition included these statements: "The Federal gunboats passed down the Tennessee River from Florence yesterday and carried off large quantities of Government stores. No injury was done to private property or to the railroad."³ On February 26, 1862, Major-General Don Carlos
Buell, the Army of the Ohio's commander, issued a proclamation which required the observance of the private property rights of the inhabitants. General Orders 13a followed precepts upheld in international law. "Peaceable citizens are not to be molested in their persons and property. Any wrongs to either are to be promptly corrected and the offenders brought to punishment." It also required that compensation be made for any use of private property. That use could only be ordered by the highest commander present. Soldiers were forbidden to enter private residences without authority, and arrests could not be made without the authority of the commanding general. Any officer that neglected to provide for his troops or made special provisions for his own comfort would be punished. "The Government supplies with liberality all the wants of the soldier. The occasional deprivations and hardships incident to rapid marches must be borne with patience and fortitude."4

Early developments appeared to promise fair, rational treatment for Alabama's non-combatants and private property. A river expedition had confined itself to Confederate Government stores, and the commander of the Federal Army most likely to invade Alabama had issued an order protecting the rights of private citizens. These optimistic notes were quickly negated by subsequent Federal actions.

After the Battle of Shiloh, General Ormsby M. Mitchell saw the opportunity to implement his standing orders to secure the Memphis and Charleston Railroad in Alabama. He
and his men arrived in Huntsville early on the morning of April 11, 1862, and encountered no effective resistance. Troops were sent out both eastward and westward along the railroad, effectively ending Confederate railroad operations in Northern Alabama. These first federal troops to remain in Alabama for an extended period compiled a mixed record of conduct toward Alabama citizens. Their record, however, does not begin in Alabama. To understand their actions, an examination of their earlier Army experiences and attitudes is in order.

The majority of these troops were green, although some had seen limited action during their movement southward. At the time of their arrival in training and staging camps in Tennessee, definite attitudes toward the South and its citizens had been acquired. Army life and experiences modified the early idealistic aim of reuniting the nation to include a bitterness toward the South that necessitated severe punishment for its citizens. These early Federal volunteers of the Western Theater were immediately at odds with their superiors and the military bureaucracy in Washington, D.C., as to what was the proper policy toward Southern citizens. There appeared to be a resentment building against the official policy of respecting the property of both loyal and disloyal citizens as early as the latter half of 1861. The supposition that the "secesh" deserved a stiff punishment for being rebels and traitors to the "glorious Union" became prevalent.

Wilbur F. Hinman, a member of the Sherman Brigade, Army of
the Ohio, reflecting after the war, believed that the ideas of the lower ranking soldiers on the subject of "confiscation" were far "in advance of those held by the double-starred generals, and the statesmen at Washington who were steering the ship." Hinman calculated a two year time lag existed between the official policy and the early attitudes of advocating strict punishment held by the common troops in the Western Theater. 5

This harsh attitude did not spring up unrestrained; a strong impression existed in the minds of these young troops that they must obey orders. They had been told from the first day of training: "this was the first and greatest duty of a soldier." Hinman stated: "...in our simplicity [re-obeying orders] we allowed chickens to bite us and pigs to squeal for Jeff Davis with impunity; we wouldn't disturb a feather or a hair. ...But the innate forces were only slumbering and gathering strength for future months and years." 6

The easiest avenue for punishing the South and expressing resentment toward her citizens was "gobbling", as soldiers of the Eighty-eighth Illinois Volunteers called it. Gobbling or foraging was the acquisition of desired items, "often done by purchase or trade, but whether or no, such things were had - literally "gobbled," or taken away without heeding the owner's dissent, or caring for his opinion as to what the price ought to be." 7 As the practice became widespread, all thought of compensation was dropped, and it became very difficult to convince the troops that they should
not be allowed to "go in". General Buell continued to issue orders forbidding foraging and soldiers did so at the risk of severe punishment. By the Spring of 1862 most units had found ways to circumvent the orders and minimize the dangers of punishment. The guards that were posted to protect specific property or prevent unauthorized excursions into the countryside, were often mess-mates who would themselves profit that evening around the cook fire. Often, after the army had remained in an area for some time, these "non-seeing" guards worked themselves out of the duty "as there was scarcely anything left to guard." 

As experience was gained, an even more secure way of avoiding punishment was found. A judiciously devised distribution system was set up within the camp, assuring the company and regimental officers of choice portions from the bounty gathered. This system proved most effective in averting punishment. Often the private soldiers were subsequently allowed to construe the pertinent orders to suit their needs. As Wilbur Hinman recalled:

The change came by virtue of necessity. It was impossible to stamp out the prevalent heresy that the soldiers ought to have whatever the rebellious country afforded that could contribute to their health and comfort. The average soldier did not stop to consider fine questions of moral philosophy, and if his conscience was sometimes disturbed, it was so much the worse for the conscience.

By April of 1862, when troops began to arrive in Alabama, unauthorized foraging and other action which violated the spirit of international law had become widespread. As the troops experienced Alabama warfare and saw prosperous areas
with "bounty" of which they (the common soldier) were officially deprived, feelings intensified concerning what the South owed the avenging troops of the glorious Union.

General Mitchell arrived in Huntsville, Alabama and occupied that immediate section of the Memphis and Charleston Railroad with a division of infantry and various support units. The total comprised about eight thousand effective men. Expeditions were successful in expanding Union control over the railroad and as early as the evening of April 12th Mitchell was able to report: "We have nothing more to do in this region, having fully accomplished all that was ordered." This particular appraisal of the situation by Mitchell was short-lived; by late April he began to repeatedly request reinforcements. Imagined Confederate forces were reported to headquarters and those that were actually seen had their number exaggerated. An example was an expedition against Bridgeport, Alabama, where General Mitchell reported first the presence of five thousand infantry and one regiment of cavalry; later he estimated the strength of the same force at five regiments of infantry and eighteen hundred cavalry. The Confederate reported their strength at "450 raw infantry" and "150 cavalry". Mitchell grew so apprehensive that he opened direct communications about reinforcements with Secretary of War E. M. Stanton, going over the head of his commander, General Buell. Mitchell proved to be less than ideal as an independent commander, his failings were aptly illustrated by inability and apparent refusal to control his troops.
The Federal response to the harassment given by Confederate forces was severe. Mrs. W. D. Chadick, a citizen of Huntsville reported arrests of several civilians in late April because of their secessionist beliefs. On April 28th, 1862 she noted in her diary:

General Mitchell has been in a rage all the week on account of the cutting of the telegraph poles and lines, the tearing up of the railroad tracks, firing into trains, and holds the citizens responsible for the same, having had 12 of the most prominent arrested. It is probable that the work of our Cavalry has annoyed him excessively, as they are constantly picking off his men.\(^\text{13}\)

J. B. Moore of Tuscumbia recorded in his diary on April 30, 1862, reports of Federal raids upon the countryside. He was outraged to hear of the robbery of widows and the taking of all the food at several plantations. He concluded that "it must be that the worst part of the army were sent down in this valley."\(^\text{14}\)

May did not open on a very cheery note for the civilian populace of North Alabama. Captain John Beatty reported his reactions on May 2nd after a train on which he was riding was fired upon, wounding several men. He had the train stopped and took a squad of soldiers back with him to Paint Rock, the site of the incident. He called the citizens of the village together and announced:

...that this bushwacking must cease. The Federal troops had tolerated it already too long. Hereafter everytime the telegraph wire was cut we would burn a house; every time a train was fired upon we should hang a man; and we would continue to do this until every house was burned and every man hanged between Decatur and Bridgeport... We proposed to hold the citizens responsible for these cowardly assaults, and if they did not drive these bushwackers from amongst them, we should make them more uncomfortable than they would be in hell.
I then set fire to the town, took three citizens with me, returned to the train, and proceeded to Huntsville.  

This action met with the approval of General Mitchell and enthusiasm by Beatty's fellow officers and men. Arrests and the burning of all buildings in an arbitrarily set radius from an incident became a widespread practice with no respect for the inhabitant's sympathies, be they pro-Union or secessionist.

General Mitchell sought approval for such strict measures from Secretary of War Stanton, rather than requesting further guidelines from his superior, General Buell. Mitchell described for the Secretary of War, in a telegram sent May 5, 1862, the harassment of his soldiers by what he termed armed citizens and guerrilla bands of cavalry. He reported the steps taken in response. "I have arrested some prominent citizens along the line of the railway and in this city [Huntsville]. I hold prisoners (citizens) against whom the negroes will prove charges of unauthorized war. Am I to convict on the testimony of blacks? Have I your authority to send notorious rebels to a Northern prison?" Stanton, absent at that time, did not answer. P. H. Watson, the assistant Secretary of War, authorized Mitchell to send two or three notorious rebels to Fort Warren, Boston Harbor, if Mitchell deemed it necessary.

Mitchell however, had to direct his attention to the action of his Eighth brigade under the command of Colonel John B. Turchin. On May 2, 1862 the brigade had entered and occupied Athens, Alabama, a small railroad town with Unionist
leanings. Upon entering, Turchin had the regiments stack their arms, and then allowed his troops to plunder and pillage the town and adjacent countryside, making no effort to restrain them. Turchin, a native of Russia and a recent immigrant, was brought up in the East European military tradition of "to the victor belong the spoils". Mitchell was shocked by the reports of the conduct of his troops coming from Athens. The fact that these were troops of his command, however, made Mitchell extremely reluctant to punish them.

The citizens of Athens presented affidavits, dated May 3, 1862 of forty-five individuals who had suffered deprivations at the hands of the officers and men of the Eighth Brigade. Mitchell's refusal of their claim for $54,689.80 in this case of undisputed atrocity was flippantly counter to international law. His explanation to a delegation from Athens for his inability to punish the offenders or to offer recompence to the citizens was as follows:

I greatly fear, gentlemen, you are laboring under a very serious misapprehension. I sincerely hope that no remarks of mine could have led you to imagine that the government of the United States would pay individual for robberies suffered at the hands of individuals, acting not only without orders, but contrary to the most positive and repeated orders. ...those who are guilty are but robbers and plunderers, and must be treated such. I cannot arraign before a court, civil or military, a brigade, and I most deeply regret that a portion at least of your time had not been occupied in searching for the testimony which would have fixed the charge of pillage and plunder upon some individual officer or soldier under my command.

Mitchell was forced by public pressure to recognize the existence of outrages committed by his command and on May 19, 1862, appeared to take positive steps toward discipline.
He wired Secretary of War Stanton acknowledging the outrages and asking for authority to impose stiff punishments. The telegrams stated in part:

The most terrible outrages - robberies, rapes, arson, and plundering - are being committed by lawless brigands and vagabonds connected with the army, ...in regiments remote from headquarters, I hear the most deplorable accounts of excesses committed by soldiers. I beg authority to control these plunders by visiting upon their crimes the punishment of death.\textsuperscript{19}

This authority was granted, but Mitchell made no move to use it. In fact, nothing was done to discipline his troops.

The situation remained unchanged until Major-General Don Carlos Buell's arrival in late June 1862. His description of the state of affairs was not heartening for the local non-combatants or the Union Army. Troops lacked discipline and were scattered, many times with their whereabouts unknown. The cavalry was broken down by marches and counter-marches seemingly for no purpose. The civilian population which had welcomed the arrival of Union troops became embittered by the treatment received from the soldiers acting with the apparent approval of their commander. No supplies had been provided for the Army after its arrival from Corinth, little if anything had been done to repair and open the railroad to Nashville, and the wagon trains were worn down from hauling cotton for speculation. No reforming measures of any kind had been initiated by General Mitchell.\textsuperscript{20} In fact, citing an inability to work with his commander, General Buell, Mitchell had arranged through the Secretary of War, a transfer to the Eastern Theater. This done, he left four days after Buell's
arrival in Huntsville.

Buell then attempted personally to straighten out the situation in North Alabama. A general court-martial was convened at Athens on July 7, 1862, to try Colonel Turchin and other officers of the Eighth Brigade. In particular, Colonel Turchin faced three charges. Turchin was first charged with "neglect of duty, to the prejudice of good order and military discipline." This charge dealt with Turchin's allowing his command to march into Athens and then plunder and pillage the town and countryside in his presence or with his knowledge, while doing nothing to restrain them. Specific examples of this included soldiers entering houses, taking all the provisions and clothing they could lay their hands on while maliciously damaging and destroying anything they could or would not take, including carpets, pianos, furniture and libraries. The businesses of the town were broken into and their cash and goods taken. Part of the brigade went to an outlying plantation and "quartered in the negro huts for weeks, debauching the females and roaming with the males over surrounding country to plunder and pillage." The second charge was for "conduct unbecoming an officer and a gentleman". This dealt with Turchin's failing to make any "reasonable and proper" effort to prevent the behavior of his troops as described in the first charge. The third charge was concerned with Turchin's violation of General Orders 13a. A detail of seven officers found Turchin guilty. On August 6, 1862, Turchin was sentenced "to be dismissed from the service of the United States". This
was not well received by the officers and men of the division. Many felt that Turchin had acted reasonably under the circumstances and Buell's insistence on a court-martial decreased even more the general's popularity with the men. Buell was thought to be hampering the war effort by his insistence on strict discipline and moderate conduct. In line with their opposition to Buell and their leaning toward punishment of the South, six members of the court recommended clemency on the grounds that "the offense was committed under exciting circumstances, and was one rather of omission than of commission. The general commanding [Buell] ...felt constrained nevertheless to carry the sentence into effect." 27

Colonel Turchin, however, was not without friends in the War Department. On August 5, 1862 he was appointed brigadier-general, United States Volunteers. He accepted the commission on September 1, 1862 and remained in service until October of 1864.

After the occupation of Corinth, Mississippi, on May 30, 1862, Northern Alabama saw increased Union troop movements as Halleck focused attention on taking and controlling eastern Tennessee. A stream of Union soldiers poured eastward through the Tennessee Valley on their way to Chattanooga and other points in Georgia and Tennessee. Many of these soldiers found time to record their impressions of the land they were passing through. Wilbur Hinman, marching across Alabama in June, 1862 reported that their strict orders against foraging were allowed to lapse, action that the troops appreciated, for as Hinman stated: "the country through which we passed afforded us
frequent relief from the regulation diet". Upon arrival in Decatur, Alabama on June 28th Hinman recorded a telling impression: "But General Mitchell had recently been there, and its deserted streets and blackened ruins told the story of his devastating visit". Moving on through the country, Hinman's brigade camped one evening near an isolated plantation. The men "borrowed" books from the library and also a few articles of "domestic use", all of which they promised to return after the war. The plantations' poultry and produce were not spared from this "borrowing". Hinman admitted that such action would surely be condemned if committed at the time his book was published (1897), "but in those days the precepts of the Bible were to the average soldier, less potent as a controlling influence than an empty stomach".

Hinman's unit was not the only one while marching across Alabama to disobey orders. Asbury Kerwood of the Fifty-seventh Indiana Volunteers remembered June in Alabama as being the time when the troops were first allowed the free use of fence-rails for fires, etc. without opposition from the officers.

The hot days of August 1862, saw an increased desire by the Union command to ravage the countryside. C. W. Wills, writing a letter to his sister, reported of orders given them to "put every woman and child (imprison the men) across the line that speaks or acts secesh, and to burn their property, destroy all their crops, cut down growing corn, and burn all the cribs. That is something like war". Such orders did not sit well with all federals. The thought of burning a house
of familiar "secesh" was repulsive, but there was no doubt
of the "justice" of such orders, Wills believed. 32

Stationed at Tuscumbia, Wills noted that the people
were taken aback by the free and easy manner in which the
federal soldiers "gobbled" their possessions. He wrote:

We are raking in about 100 bales of cotton per
day and could get more if we had the trans­
portation. It makes the chivalry howl, which
is glorious music to our ears, and the idea of
considering these confederacies something else
than erring brothers is very refreshing.33

General Buell lost his command late in 1862, largely
because of his moderate policies and his Democratic politics.
A commission was convened in Cincinnati during November of
1862 to investigate charges that Buell had hampered the
achieving of Union objectives. Parts of the testimony heard
during the commission dealt with conduct in Northern Alabama.
Captain Joseph J. Slocum, a defense witness and commissary of
subsistence was questioned by General Buell about the conduct
of troops under General Mitchell's command. He answered:

We had some regiments in that division who were
extremely hard to control; but they were partic­
ularly good at the warfare that was carried on
there, I suppose, of abusing the people. For in­
stance, the Nineteenth Illinois has the credit of
having a hard reputation. The Tenth Ohio was a
pretty good regiment in that way, but it was under
discipline. These regiments, particularly the
Nineteenth Illinois, were kept out, I believe, as
much as possible to the extreme for bushwacking
purposes, as we called it. They were very good at
that and a very fine regiment when brought into
action.34

Another defense witness, Colonel Marc Mundy of the Twenty­
third Kentucky Infantry, stated that articles in Northern
newspapers condemning Buell's policies had a demoralizing
effect on the troops. Such articles were able to convince
the troops that it was their right to punish the South. This in combination with the publication of General Pope's announced "tough western" policy (upon taking command of the Army of the Potomac) made it difficult to keep the troops disciplined. The commission found that Buell could not be punished for following a conciliatory policy. They reasoned that it was at that time understood to be the policy of the Government and he could violate no orders on the subject, because there were none. General W. S. Rosecrans assumed command of the Army of the Ohio in October, 1862 bringing an end to the "conciliatory" policy orders of his predecessor.

It was the Autumn of 1863 before Northern Alabama again saw large concentrations of Union troops. By then, taking items that might add to one's comfort was standard procedure for many of the soldiers finding themselves in Northern Alabama. Large scale foraging became common practice.

As soon as we came in sight of camp, the infantry went in squads in search of meat, with guns. The woods were full of hogs, and it soon sounded like heavy skirmishing, General Smith, riding in great fury back and forth, endeavoring to punish the guilty parties and put a stop to it. He tied up several men by the limbs all night, but the boys got their hogs. He is gettin unpopular very fast with the men.

Later, J. L. Jones wrote again of General Smith's inability to enforce strict discipline. In November of 1863, he wrote that a camp guard was established to keep the men from leaving the camp with guns. The men had been accustomed for too long to easy foraging, however, to be stopped. The guards looked the other way as meat and other supplies were
brought into camp. J. L. Jones recorded that his mess had "six chickens, a beef and a goose ... on stock for eight men." This same unit altered its behavior in regards to foraging when their rations changed. When fresh meat was issued to the men, hardly any foraging for farm animals took place, rather the men confined their efforts to finding fodder for their animals.

Moses D. Gage, moving across Alabama in late 1863, recorded events which occurred as his unit marched through areas not previously visited by the Union Army.

The people were astonished at the coolness with which their well-filled larders were emptied of the precious contents. But entreaties and tears were of no avail. With a simple inquiry "Where is the man who belongs here?" and the reply "he is in the army;" they were well satisfied of their right to consume the supplies of armed foes. They often presumed that the husband, son, or brother was absent as an armed rebel, without making any preliminary inquiry.

...And, a very good reason, in addition to all this, was that these people were living much better than the army not withstanding their enmity, and this ought not to be permitted. And it is worthy of remark that for a time few fared better than the soldiers.

Charles W. Wills wrote to his sister in December of 1863 that he was ordered to do duties which distressed his sense of moral conduct. He thought that he had done his worst when ordered to confiscate horses and mules. Now, however, he was told to go and confiscate all the sheep he could find. Wills considered this to be stealing as the people he was taking the sheep from were poor with hardly an item of sustenance, certainly not a well off Southern plantation owner. Wills was proud of the fact that none
of the men under his command were guilty of unauthorized robbery, plundering, or stealing. He believed that he was the only officer in his detachment that could make such a claim. He consistently discouraged such conduct and kept a close eye on his men. He wrote in a letter to his sister that he was willing to be responsible for all that they did.41

Those inhabitants of Alabama who suffered the most from Federal troops were the people living on isolated farms in the back country. They had no one to appeal to for protection, especially on those farms whose men were off with the army. Besides finding themselves the victims of organized foraging expeditions, they were also terrorized by the stragglers and renegades from both armies. The philosophy of even the most moderate unit in the field was at least the equivalent of the suggestion by one of the staff officers of the Sherman Brigade. Major William McLaughlin told his men "when you're out, don't starve".

Colonel Hans C. Heg, writing home described a visit to a plantation:

I got a good glass of wine and some nice Ham, Bread, Milk and preserves for my Dinner. She was a widow woman - and was very anxious to have some one stay and take care of her chickens, turkeys and geese. I took as good care of her as I could - but the boys got about all her geese, and turkeys anyhow.

...Our living has been good now for a few days - plenty of peaches - chickens, turkeys, and sweet potatoes.42

Food was not the only item taken by troops as they passed farms. Furniture was often destroyed, anything val-
uable and portable was carried away and anything left, in­
cluding all buildings, was usually set afire. The Coleman
family near Athens had the misfortune of being visited.
The unit ransacked the house from top to bottom. They de­
stroyed the furniture and other household items. Mrs.
Coleman pleaded with the man who she thought was in charge,
to stop the men. His reply was "Damn you, I have no pro­
tection for you - pitch into that home, men and sack it."
They continued to search for valuables and when nothing
more could be found, the house was set afire. The women
of the farm were left watching the buildings burn.43

Thomas Stevenson marching with the Seventy-eighth
Ohio Volunteer Infantry over the Sand Mountains of Northern
Alabama noted that the area was inhabited by many poor and
destitute people, unlike the prosperous areas along the
Tennessee River. The passing of the Army threw great terror
into them and despite their poor economic condition "many of
them [were] robbed and plundered of everything".44 Benjamin
McGee and the Seventy-second Indiana Volunteer Infantry went
into camp near Mooresville, Alabama in February, 1864. He
wrote that if there was one thing this particular unit ex­
celled, it was its ability to forage. Colonel Biggs of the
One Hundred Twenty Third Illinois, however, issued strict
orders to the Seventy-second that foraging should entirely
cease, any soldier caught foraging or with any forage in his
possession would be severly punished. McGee wrote:

Of course our boys were too good soldiers and too
well drilled in discipline not to obey; but the
first thing they did after getting the order, was
to dig in each bunk a subterrean receptable for hams, chickens, pigs, flour, dried fruit, potatoes, and molasses, which somehow or other, would keep coming into camp and getting into the very places prepared to receive them.45

This ability to "encounter" such forage by McGee and his unit was all the more remarkable as they were camped in the Sand Mountains region, the area mentioned by Stevenson as being so poor.

Northern Alabama, along the Tennessee River, remained a rich store house for passing troops, but the years of Federal presence there had taken its toll. Carrol Quenzel marched with the Thirty-ninth Ohio Volunteers to Decatur, Alabama in mid-April 1864. Quenzel described Decatur as a town that had "suffered more from the ravages of war" than any place he had been. "A great many of the buildings have been torn down to give range for the Batteries, and for the formation of Rible pits. There are no citizens here. All the inhabitants have been sent away, both loyal and disloyal."46

Huntsville had suffered also at the hands of the Federals, but not to the degree of Decatur. By 1864 the local commander no longer had to ask permission of the Secretary of War to send citizens behind the lines. Mrs. Chadick recorded in her diary that: "Twelve of the most prominent citizens, original secessionists, have been arrested and called upon to take the oath of allegiance. They all refused to a man, and are ordered to leave the lines".47 Officers were often quartered with local citizens during their stay in Huntsville. Mrs. Chadick reported good experiences with her forced boarders. Although she did not welcome them, those that stayed with her
were well behaved and did not damage her property. She recorded in her diary though, that such destruction was not an unusual experience. Many of the officers and their wives plundered the houses they were staying in when ordered to move on. The local clergy were not immune from Federal scrutiny either. Mrs. Chadick wrote on December 31, 1864 that:

Mr. Bannister (Episcopal rector) received notice today that, if he could not pray for Lincoln, he could not officiate in his church on the morrow and that he would be sent South.

She went on to record that she personally knew of many Federal officers who were ashamed of the way the Army acted toward the local civilians. Officially, though it was known that the Confederate cavalry was operating in the area, the Federals insisted that it was the work of the bushwhackers and renegades supported by the inhabitants. On that premise many house burnings took place in retribution for attacks on Federal troops and any prisoners captured were often not accorded the rights of prisoner of war, but rather treated as criminals.

Mrs. Chadick saw no rhyme or reason to the Federal acts. Mr. Jolly, a Huntsville native with Unionist sympathies, found his house plundered.

...they took everything that they could lay their hand upon. Childrens clothes, jewelry, hoop skirts, going into the rooms where the young ladies were not yet out of bed.

A friend, Mr. Bob Smith, was "deported" without warning when he went down to the train to see Dr. Ross off, who was being "deported". His crime was that he offered the doctor some
money for the trip. For that action, he was carried off without getting to tell his family of the situation or the opportunity to get a change of clothes.\textsuperscript{52}

William Hartpence, with the Fifty-first Indiana Volunteers, found himself in the area north of Athens in December 1864. Although much visited by Federals, it still had much to offer an enterprising forager. He reported that:

\begin{quote}
[we]...were subsisting largely off the fat of the land - which was pretty fat at that time. ...The way we absorbed the material products of that section, must have created in the minds of the natives grave apprehension of a famine. "Are you-uns-all gwine t' ruin we-uns-all?" they asked; and we assured them that we had come to save them! Then we went on saving the fine sweet potatoes, dried fruit, pork, honey, etc. which these hypocritical people had been industriously cultivating and preserving to feed the rebel army with.\textsuperscript{53}
\end{quote}

Extreme South Alabama did not have the same extensive experience with Union troops which Northern Alabama had. Its experience was limited to minor cavalry raids from Union forces based in Florida and then in the closing days of the war, the taking of Mobile by a Union fleet and army.

The greatest activity by Union forces in South Alabama occurred in 1865. The Reverend Timothy H. Ball reporting on a small expedition which passed through Clarke county wrote that very little damage was done. A building was burned, and the troops committed "some havoc", but two hundred bales of cotton were either not noticed or ignored.\textsuperscript{54} Conecuh county was not as fortunate in its experience with an expedition from Florida. B. F. Riley, historian of the county, reported
that the Federal troops entered Evergreen, Alabama without resistance. Even so, families had their valuables stolen and livestock driven off. 

Parthenia Hague, a school teacher employed near Eufaula, Alabama, described the effect of receiving news that the "Yankees are coming" on the plantation where she lived. As the news spread from house to house:

Planters hastily fled to the swamps and the deep unfrequented woods, with their stock and valuables. At intervals throughout the day, droves of cattle and hogs were driven past my employer's residence to hiding places in the woods; and wagons and carriages, filled with whatever valuables could be quickly gotten together, were also passing by.

The women were left on the plantation to greet the Yankees. Miss Hague did not resent the fact that the planter did not stay. She and the other women believed that his presence would have done them no good and perhaps harm. She cited the possibilities of his being hung or tortured to discover the hiding place of his valuables. These were actions which she had heard of occurring elsewhere. Miss Hague was particularly upset that the Yankees did not respect the condition of their victims. If the family did not have enough food for another meal, the soldiers would obtain their satisfaction by burning the houses, gins, and cotton. The women and children were forced to watch as their trunks, bureaus, and wardrobes were kicked open. "Whatever struck the soldiers fancy was appropriated; to the rest of the contents, as apt as not, a match would be applied, and the labor of years would swirl up in smoke."
Eliza Walker wrote of her experience with Federal cavalry troops which visited her family plantation late in the war. Her mother tried to defy the troops and prevent destruction on the grounds that a temporary armistice had been declared. This defiance was to no avail, the troops took whatever appeared valuable and helped themselves to any food that caught their eye. They turned out the stock and left the corn cribs empty. Her conclusion to this visit was: "Everywhere they went was marked by devastation."59

In South Alabama Union forces took Mobile on April 12, 1865. At first the occupation of Mobile went smoothly; the Federals conducted themselves according to the "rules of civilized warfare", much to the surprise of the inhabitants. But it was not long before the citizens began to feel the heavy hand of the Union presence. Mrs. Laura Robert Pillans recorded in her journal on April 13th:

The indulgent Yanks are beginning to unsheath their claws; already it is said they they have been looking around for pleasant houses and have taken such a fancy to our neighbor Maguires' house as to signify to him their wish to possess it and so Mr. Mc. has nothing else to do but give it up peaceably. The screw begins to turn a little.60

Mrs. Pillans also reported a good experience with the Army later in the month. She had had a horse and cart stolen by an Irishman when the Confederate Army left. She went down to the provost-marshall and reported the event. A squad of soldiers were sent out and soon arrested the man and recovered the horse and cart. The man was sent to Ship Island, and Mrs. Pillans was well pleased with having the horse returned.
Expeditions were sent out from Mobile to scout the countryside. One such expedition visited the plantation of Alexander Anderson whose nephew, Ephraim Alexander, happened to be visiting the plantation on sick leave from the First Missouri Confederate Brigade. Ephraim Anderson recorded the effect of a visit by several squads of Union cavalry to the plantation. The house and outbuildings were completely sacked. An ox and several hogs were left dead in the fields, killed for the joy of it. The poultry was gone and the smokehouse cleaned out, it had contained the product of nearly fifty hogs. All the stored vegetables were taken. He concluded by writing "...everything was turned upside down, and it seemed scarcely worthwhile to straighten up, as the county was now entirely exposed to this system of Federal plunder and devastation."

The occupation of Mobile under active war conditions was short lived, on May 5, 1865, General Taylor surrendered the remaining Confederate forces east of the Mississippi River to General E. R. S. Canby at Citronelle, Alabama. Due to the brevity of action, no record of Union conduct was clearly established in South Alabama.
Chapter IV
The Cavalry Raids

Alabama was not the scene of large armies maneuvering against each other, it did experience extensive raids by Union cavalry. The State's position as a major supplier of foodstuffs and manufactured goods to the Confederacy caused it to be the object of raids, which were also intended to divert Confederate attention away from the Union Army's main objectives.

The scene of many minor raids by mounted Federals, Alabama was also the unwilling host of three major raids. Colonel A. D. Streight led the first major raid in April of 1863, Major-General L. H. Rousseau followed with a more successful raid in July of 1864, and in April of 1865, Major-General J. H. Wilson led what has been called a model raid through the heart of Alabama.

Streight introduced large scale cavalry operations to Alabama with seventeen-hundred men mounted on mules (through a supply mix-up) on April 21, 1863. His aim was to create confusion in the rear of General Braxton Bragg's Confederate Army, seek recruits among the Union sympathizers in Northern Alabama and to destroy what Confederate Government supplies he could find. His written orders read in part:

For all property taken for the legitimate use of your command you will make cash payments in full to men of undoubted loyalty; give the usual conditional receipts to men whose loyalty is doubtful, but to rebels nothing. You are particularly commanded to restrain your command from pillage and marauding. You will destroy all depots of supplies
of the rebel army, all manufactories of guns, ammunition, equipment, and clothing for their use.¹

The raid was designed with General G. M. Dodge to lead a cavalry feint due south through Alabama to draw off Forrest, while Streight headed toward Rome, Georgia. The feint did not work and Forrest was soon dogging Streight's every step. Streight barely had time to confiscate fresh horses as Forrest kept after him twenty-four hours a day. Streight was forced to stop because of exhaustion near Cedar Bluff, Alabama, and Forrest, with a much smaller force, was able to bluff him into surrendering. Streight did not have time to show whether he would have followed his written orders concerning pillaging and marauding. Almost all his time was spent trying to elude capture.

General Dodge had more time to conduct his secondary raid, and faced no effective opposition. Daniel Ambrose, riding with Dodge, recorded his impressions. He wrote on April 23rd: "Today we witness war's desolating scourge on the plantations. The devouring elements of fire are doing their work. The Alabama Union cavalry and the Kansas Jayhawkers are on the war path; their day has come - their day of retribution."² The Alabama Union cavalry built their reputation of being especially harsh on the citizens of the South at this time, but for most of the war, they were unable to live up to that reputation as they were dismounted due to lack of horses.

Dodge's accomplishments were summed up as having desolated the garden spot of Alabama, while inflicting deserved
punishment on her citizens. Dodge reported: "Cattle, sheep, cows, and hogs we captured and used by the thousands, and I did not leave a thing in the valley that I considered would in the least aid the enemy."³ Dodge believed that his command had conducted itself well. He could recall but one instance in his report where his troops disobeyed his orders and burned some houses. He issued orders that anyone caught in such an act would be shot. After that "nothing was burned except by my order".⁴

Streight's raid did not give a true picture of how a cavalry raid could affect non-combatants and their private property. General Dodge had more opportunity to conduct a raid as he pleased, but his was but a small feint and did not serve as an actual example of a major raid in action. General L. H. Rousseau was issued orders in the summer of 1864 which authorized another Federal raid. The orders gave General Rousseau opportunity to exercise his own discretion on treatment of non-combatants and private property.

On July 10, 1864, Major-General L. H. Rousseau began a cavalry raid into Alabama that would last nine days and cover 300 miles. He had two brigades with which to divert attention and create confusion in the rear of Johnston's Army during Sherman's Atlanta campaign. Rousseau's main objective was to destroy the West Point and Montgomery Railroad and therefore sever Atlanta's link with Montgomery. Rousseau was ordered by Sherman to avoid fighting as much as possible and to concentrate on making a successful deep, sharp raid against the railroad. Forage, meat, and corn meal were to be obtained from
farms. With such a strong emphasis on timing, Rousseau had to travel light. Incidental to destroying the railroad, Rousseau was to strike terror into the "heart of rebeldom" proving that no part of the Confederacy was safe from attack by Federal troops.

All accounts written of Rousseau's raid comment on how tightly he was able to keep his men in rein and how private property was generally spared destruction. The Confederate military report by Major W. T. Walthal of Rousseau's action in Talladega, Alabama stated:

They acted with unusual forbearance. No damage was done to private property except in one or two exceptional cases. Safeguards were furnished to various families who applied. The railroad station house was burned, but pains were taken by them to save at least a portion of the private property that happened to be stored in it. No effort was made to tear up the track. The post office was ransacked...

Major Walthal did report that some private property was destroyed by the passing Federal troops. Between Greensport and Talladega, two iron manufactories were burned and in Talladega, a factory not in operation at the time, which manufactured small-arms, was destroyed. Missed by the troops was a camp about a mile outside of town which served as a basic training center for the home guard.

Rousseau reached the West Point - Montgomery Railroad at Loachapoka, Alabama. There he tore up some thirty miles of track. The depot in Loachapoka took fire accidentally from the burning ties and other materials on the nearby track. Rousseau had his men fight the fire and with great exertion was able to keep it from spreading beyond the railroad.
buildings. After leaving Loachapoka Rousseau made his way into Georgia and joined Sherman.

By far the largest cavalry raid carried out in Alabama was Wilson's in April of 1865. Designed as a severe blow to the heart of the South, it has been called the example of a large cavalry operation. Its purpose was to create a major diversion for Canby's action against Mobile. General James H. Wilson's orders gave him ample discretion as an independent field commander. Gerald Wilson had at his command approximately thirteen thousand effective troops. After a three week delay due to rain, the raid began on March 22, 1865. The Tennessee Valley through which it first moved had been devastated by two years of constant warfare. General Wilson was obliged to scatter his troops over a wide expanse of the country in order to provide his command with sustenance as it passed through the valley and the poor hill country to the south of it. The Federals had no fear of organized Confederate resistance since Forrest was camped at West Point, Mississippi. Benjamin McGee with the Seventy-second Indiana Volunteers recalled his orders received before commencing the raid were "to get our living and forage off the country, and to take with us or destroy everything that would be of service to the rebel cause".

On March 30th, General Wilson ordered General John T. Croxton's brigade detached with orders to move on Tuscaloosa. This action was done to cover Wilson's supply trains from the Confederates. Croxton's orders read in part: "proceed
rapidly by the most direct route to Tuscaloosa to destroy
the bridge, factories, mills, university (military school),
and whatever else may be of benefit to the rebel cause". 11

Advance scouts from Croxton's brigade reached Tuscaloosa on April 3rd. As they passed the time waiting for
Croxton, they became bold, roaming the streets. Renegade
Southerners joined them and drinking became widespread, which
resulted in numerous reports of looting. 12 After Croxton
arrived the business of destroying the university and various
factories was undertaken. Although the school was defended
by a small corps of its cadets, they were no match for the
Union soldiers and after putting in an appearance, they beat
a hasty retreat toward Montgomery. Almost the entire plant
of the school was put to flames, which spread to neighboring
houses.

At the Rotunda, Professor Andre DeLoffre made a
brave attempt to save the library, of which he
was custodian. He appealed to the officer in
charge of the raiding squad to spare one of the
finest libraries in the whole South. The officer himself must have had some appreciation
for books. He restrained his men while he sent
to General Croxton a message asking whether it
was imperative for this excellent library to be
burned. The General replied curtly that his
orders left him no discretion; the library must
go. The officer then...ordered the building
burned. 13

Only four buildings from the University of Alabama's campus
survived Croxton's visit. Ironically, one of those was the
Round House, the only campus building erected expressly for
military purposes. 14

Selma was one of the prime objectives of Wilson's raid.
It was a major manufacturing center for the South. Within
its boundaries, almost every type of war material was manufactured. Selma had assumed the position of a major supply point for the South in 1863 and expanded that role during the subsequent years. There were arsenals and iron works, which turned out shell and shot, and items ranging from horseshoe nails to steam boilers. Clothing was also made within Selma's confines, as was leather gear, chains and wagon equipment. A saltpetre factory was located there and at the time of the raid, an iron river boat ram was nearing completion in the shipyard. Selma's importance was such that General Nathan B. Forrest deemed it necessary to defend the town against the raid. He dismounted his men to man the trenches and called every able bodied citizen of the town to assist in its defense.

Wilson had his men in position opposite the defense trenches of Selma by late afternoon of Sunday, April 2nd. He decided to attack that evening and after a sharp exchange, was able to break the defense line and enter the city. By ten Union troops had control of the town and had captured a major portion of the defending Confederate troops. General Forrest was able to escape by fleeing just as Union troops entered the town proper.

The night attack contributed to general confusion and discipline was lost as Union troops gained the town. That night a brick building on Broad Street was set on fire. It had served the Confederates as a jail for Union prisoners and skulkers from the Southern Army. Reportedly it was previous inmates of the institution which set the fire. This
fire spread to other houses along Broad Street. Union soldiers had no inclination to fight the fires. During the night private residences were broken into and any resistance was dealt with ruthlessly. Valuables were seized and alcoholic beverages demanded. The extent of plundering done by the Union soldiers was variously reported. Ella Smith, visiting Selma at the time of capture, thought that reports of mistreatment to the citizens of Selma were greatly exaggerated. Another resident believed that the soldiers had been told that if they were able to take the city before daylight, they could do as they pleased with the town until daybreak. The town was taken early in the evening and Mrs. C. E. Landis reported that the Federals had all night to "drink, carouse, pillage and burn". The fire in Selma continued to rage until Tuesday night and was aided on Monday by the firing of the Naval Foundry, Arsenal and other places of manufacturing. The city had nearly been destroyed, but order had been reestablished on Monday and protection was available for those who applied for it. By Tuesday evening almost every private family had a soldier or soldiers stationed on their premises.

After occupying Selma for several days, Wilson moved on toward Montgomery, his last major objective before leaving Alabama. Montgomery offered no resistance to Wilson's arrival and the Federal troops were able to occupy it peaceably. Benjamin McGee reported that several steam boats and machine shops were burned. Also a large amount of Confederate commissary and quarter-master stores were destroyed. McGee made a special note that private property was not molested.
The Montgomery Advertiser reported on April 18th that General Edward M. Cook did indeed protect the citizens of Montgomery. His promise that no destruction would take place had been ratified by General Wilson. A guard was posted throughout the town and the main body of Wilson's troops merely marched straight through on their way to Columbus, Georgia. A few isolated incidents of robbery were reported in the suburbs, attributed to drunken troopers. The largest effort that Wilson's passing had on Montgomery was that all the horses and mules were taken and a considerable number of negroes went off, following the army. 21

Moving toward Columbus, orders were issued to pick up all serviceable mules and horses and to mount each with an able-bodied negro. They in turn were to go out and gather supplies for the army in the form of flour, meal, chickens, turkeys, and pork. Thomas Dornblaser, a volunteer with the Pennsylvania Dragoons, reported that by this point in the war it was believed that "a soldier who could not forage successfully might as well be in the hospital. To have foraged well was an achievement that called for higher compliment than "to have fought well". 22

The completion of Wilson's raid and the taking of Mobile saw the war period come to an end in Alabama. Federal troops had compiled a mixed record. Alabama was the scene of both Federal outrages and remarkable restraint against local citizens and private property.
Chapter V
Conclusions

By 1861 and the start of the American Civil War, a great storehouse of laws and precedents existed pertaining to troop conduct. The standards in existence during the 1860's exemplified a policy of moderation toward non-combatants and private property. Their rights were to be respected and no damage to or confiscation of property done without the explicit order of a superior officer. Blanket statements of conduct such as "seek and destroy any property that might possibly be of assistance to the enemy, and harass that population which shows any sympathy toward the enemy", were not recognized. Rather the laws called for a consistent standard of restraint.

Alabama had extensive experience with Union troops throughout the war. Their conduct ranged from unusually restrained to uninhibited pillage and marauding. The most powerful influence on the soldiers' conduct was their immediate superior officer. If the officer had the respect of his men and believed in the protection of the non-combatant's rights, invariably Alabama's inhabitants were spared harsh treatment and the destruction of their property. The men of Rousseau's and Charles W. Will's commands were examples of this behavior. In many instances, however, as Charles Will's experience showed, the superior officer's desires or ideas prevailed. If that officer or the junior officer did not believe in any of the precepts of international law, as was the case with Turchin, the troops were only held back by their own consciences,
which did not always trouble them in the "spirit of the moment".

The guerrilla warfare found in Alabama caused Union soldiers to react harshly. They found it very frustrating to be faced by an enemy which could not be seen. These frustrations were relieved by attacking something which could be seen, the local population. The political beliefs held by the population had little effect on the severity of the treatment they received. Orders sometimes made a distinction between Unionist and non-Unionist, but the distinction was rarely, if ever, made in the field.

The amount of Union sentiment among the civilian population was a small factor in determining troop conduct. Confederate activity in an area could certainly bring Union wrath on a village or plantation. Even if individuals in a village or town espoused Union sentiment or treated their "guests" deferentially, they had no guarantee of better treatment. They were likely to suffer the same fate as those who jeered the soldiers or made obvious their contempt for the Union.

Generally, throughout the war, orders were issued to respect the property as well as the person of non-combatants. As the war progressed these orders became less strict. Confiscation or destruction became the rule rather than the exception. Field soldiers, feeling little or no qualms, grew adept at raiding the countryside for the avowed purpose of punishing the "secesh" and "gobbling" or destroying any item that "might further the cause of the South".
Few commanders in Alabama exercised enough discipline for their troops to believe the punishment was anything but an empty threat. If a commander stood by his orders and punished offenders, the troops found it easy to escape detection and punishment. This was the case with Jenkin Jones' unit and General Smith. Often orders were nullified by the cooperation and sometimes actual encouragement of the junior officers. They had the major responsibility of maintaining proper discipline. Guidelines from high up the chain of command, e.g. General Orders 100, could not counter the prevailing feeling that the citizens of the South deserved punishment, not protection.

In general, the conduct of Union troops in Alabama did not meet the standards outlined in international law or General Orders 100. If not restrained by a superior officer, the common Union soldier, usually with a mid-western, rural background, was inclined to personally punish the "secesh". If the soldier needed to justify his action (either to himself or those back home), it was done by assuming a certain attitude. This attitude held the citizens of Alabama in low esteem. The citizens' desires or rights needed not to be addressed since they (the citizens) fell into that group known as "secesh", lucky to be left to live. Many times when "secesh" was used to describe Alabamians, the implication was that it pictured something less than human.

The majority of the soldiers stationed or passing through Alabama were volunteers, not regular army. Discipline was a novelty. As their experience with the Army grew, these
"civilian" troops began to resent strict discipline. This was especially true when they actually arrived in the Southern states. The desire to punish the South combined with the resentment of strict discipline to make the civilian population the target of the troops' aggression.

The Union soldier in Alabama, whether marching through the Tennessee Valley, occupying Huntsville or riding with Wilson was guided in his conduct more by his empty stomach and desire to punish the South, than by the precepts of the Bible or international law.
APPENDIX I

Head Quarters of the Army, Tampico, February 19, 1847. General Orders, no. 20. 1. It may well be apprehended that many grave offences not provided for in the act of Congress 'establishing rules and articles for the government of the armies of the United States', approved April 10, 1860, may be again committed -- by, or upon, individual of those armies, in Mexico, pending the existing war between the two Republics. Allusion is here made to atrocities, any one of which, if committed with the United States or their organized territories, would, of course, be tried and severely punished by the ordinary or civil courts of the land.

2. Assassinations; murder; malicious stabbing or maiming; rape; malicious assault and battery; robbery; theft, the wanton desecration of churches, cemeteries or other religious edifices and fixtures, and the destruction, except by order of a superior officer, of public or private property, are such offences.

3. The good of the service, the honor of the United States and the interest of humanity, imperiously demand that every crime enumerated above, should be severely punished. (paragraphs 4-6 demonstrate the necessity of a code supplemental to the rules and articles of war.)

7. That unwritten code is Martial Law, as an addition to the written military code, prescribed by Congress in the rules and articles of war, and which unwritten code, all armies, in hostile countries, are forced to adapt -- not only for their own safety, but for the protection of the
unoffending inhabitants and their property, about the theaters of military operations, against injuries contrary to the laws of war.

8. From the same supreme necessity, martial law is hereby declared, as a supplemental code in, and about, all camps, posts and hospitals which may be occupied by any part of the forces of the United States, in Mexico, and in, and about, all columns, escorts, convoys, guards and detachments, of the said forces, while engaged in prosecuting the existing war in, and against the said republic.

9. Accordingly, every crime, enumerated in paragraph No. 2, above, whether committed --1. By any inhabitant of Mexico, sojourner or traveler therein, upon the person or property of any individual of the United States' forces, retainer or follower of the same; 2. By any individual of the said forces, retainer or follower of the same, upon the person or property of any inhabitant of Mexico, sojourner or traveller therein, or 3. By any individual of the said forces, retainer or follower of the same, upon the person or property of any other individual of the said forces, retainer or follower of the same -- shall be duly tried and punished under the said supplemental code.

10. For this purpose it is ordered that all offenders, in the matters aforesaid, shall be promptly seized and confined, and reported, for trial, before Military Commissions to be duly appointed as follows:
11. Every military commission, under this order, will be appointed governed and limited, as prescribed by the 65th, 66th, and 97th, of the said rules and articles of war, and the proceedings of such commissions will be duly recorded, in writing, reviewed, revised, disapproved or approved, and the sentences executed -- all, as in the cases of the proceedings and sentences of courts-martial; provided, that no military commission shall try any case clearly cognizable by any court-martial, and provided also that no sentence of a military commission shall be put in execution against any individual, whatsoever, which may not be, according to the nature and degree of the offence, as established by evidence, in conformity with known punishments, in like cases, in some one of the States of the United States of America.

12. This order will be read at the head of every Company serving in Mexico.
APPENDIX II

General Orders, No. 100.
Washington, April 24, 1863
Instructions for the Government of Armies of the United States in the Field.
Section I. Martial Law—Military jurisdiction—Military necessity Retaliation.

1. A place, district, or country occupied by an enemy stands in consequence of the occupation, under the martial law of the invading or occupying army, whether any proclamation declaring martial law, or any public warning to the inhabitants, has been issued or not. Martial law is the immediate and direct effect and consequence of occupation or conquest.

   The presence of a hostile army proclaims its martial law.

2. Martial law does not cease during the hostile occupation, except by special proclamation, ordered by the commander-in-chief, or by special mention in the treaty of peace concluding the war, when the occupation of a place or territory continues beyond the conclusion of peace as one of the conditions of the same.

3. Martial law in a hostile country consists in the suspension by the occupying military authority of the criminal and civil law, and of the domestic administration and government in the occupied place or territory, and in the substitution of military rule and force for the same, as well as in the dictation of general laws, as far as military necessity requires this suspension, substitution, or dictation.
The commander of the forces may proclaim that the administration of all civil and penal law shall continue either wholly or in part, as in times of peace, unless otherwise ordered by the military authority.

4. Martial law is simply military authority exercised in accordance with the laws and usages of war. Military oppression is not martial law; it is the abuse of the power which that law confers. As martial law is executed by military force, it is incumbent upon those who administer it to be strictly guided by the principles of justice, honor, and humanity—virtues adorning a soldier even more than other men, for the very reason that he possesses the power of his arms against the unarmed.

5. Martial law should be less stringent in places and countries fully occupied and fairly conquered. Much greater severity may be exercised in places or regions where actual hostilities exist or are expected and must be prepared for. Its most complete sway is allowed—even in the commander's own country—when face to face with the enemy, because of the absolute necessities of the case, and of the paramount duty to defend the country against invasion.

To save the country is paramount to all other considerations.

6. All civil and penal law shall continue to take its usual course in the enemy's places and territories under martial law, unless interrupted or stopped by order of the occupying military power; but all the functions of the hostile government—legislative, executive, or administrative—whether
of a general, provincial, or local character, cease under martial law, or continue only with the sanction, or, if deemed necessary, the participation of the occupier or invader.

7. Martial law extends to property, and to persons, whether they are subjects of the enemy or aliens to that government.

13. Military jurisdiction is of two kinds: First, that which is conferred and defined by statute; second, that which is derived from the common law of war. Military offenses under the statute law must be tried in the manner therein directed; but military offenses which do not come within the statute must be tried and punished under the common law of war. The character of the courts which exercise these jurisdictions depends upon the local laws of each particular country.

In the armies of the United States the first is exercised by courts-martial; while cases which do not come within the Rules and Articles of War, or the jurisdiction conferred by statute on courts-martial, are tried by military commissions.

14. Military necessity, as understood by modern civilized nations consists in the necessity of these measures which are indispensable for securing the ends of the war, and which are lawful according to the modern law and usages of war.

15. Military necessity admits of all direct destruction of life or limb of armed enemies, and of other persons whose destruction is incidentally unavoidable in the armed contests of the war; it allows of the capturing of every armed enemy and every enemy of importance to the hostile government, or
of peculiar danger to the captor, it allows of all destruc-
tion of property, and obstruction of the ways and
channels of traffic, travel, or communication, and of all
with-holding of sustenance or means of life from the enemy;
of appropriation of whatever an enemy's country affords
necessary for the subsistence and safety of the army, and
of such deception as does not involve the breaking of good
faith either positively pledged regarding agreements entered
into during the war, or supposed by the modern law of war
to exist. Men who take up arms against one another in public
war do not cease on this account to be moral beings, respons-
ible to one another and to God.

16. Military necessity does not admit of cruelty—that is,
the infliction of suffering for the sake of suffering or
for revenge, nor of maiming or wounding except in fight,
nor of torture to extort confessions. It does not admit
of the use of poison in any way, nor of the wanton devastation
of a district. It admits to deception, but disclaims acts
of perfidy; and, in general, military necessity does not
include any act of hostility which makes the return to peace
unnecessarily difficult.

17. War is not carried on by arms alone. It is lawful to
starve the hostile belligerent, armed or unarmed, so that
it leads to the speedier subjection of the enemy.

*  

21. The citizen or native of a hostile country is thus an
enemy, as one of the constituents of the hostile state or
nation, and as such is subjected to the hardships of the war.
22. Nevertheless, as civilization had advanced during the last centuries, so has likewise steadily advanced, especially in war on land the distinction between the private individual belonging to a hostile country and the hostile country itself, with its men in arms. The principle has been more and more acknowledge that the unarmed citizen is to be spared in person, property, and honor as much as the exigencies of war will admit.

23. Private citizens are no longer murdered, enslaved, or carried off to distant parts, and the inoffensive individual is as little disturbed in his private relations as the commander of the hostile troops can afford to grant in the overruling demands of a vigorous war.

25. In modern regular wars of the Europeans and their descendants in other portions of the globe, protection of the inoffensive citizen of the hostile country is the rule; privation and disturbance of private relations are the exceptions.

Section II. — Public and private property of the enemy—
Protection of persons, and especially of women; of religion, the arts and sciences—Punishment of crimes against the inhabitants of hostile countries.

35. Classical works of art, libraries, scientific collection, or precious instruments, such as astronomical telescopes, as well as hospitals, must be secured against all avoidable injury, even when they are contained in fortified places
whilst besieged or bombarded.

*  

37. The United States acknowledges and protects, the hostile countries occupied by them, religion and morality; strictly private property; the persons of the inhabitants, especially those of women; and the sacredness of domestic relations. Offenses to the contrary shall be rigorously punished.

This rule does not interfere with the right of the victorious invader to tax the people or their property, to levy forced loans, to billet soldiers, or to appropriate property, especially houses, lands, boats or ships, and the churches, for temporary and military uses.

38. Private property, unless forfeited by crimes or by offenses of the owner, can be seized only by way of military necessity, for the support or other benefit of the Army or of the United States.

If the owner has not fled, the commanding officer will cause receipts to be given, which may serve the spoliated owner to obtain indemnity.

*  

44. All wanton violence committed against persons in the invaded country, all destruction of property not commanded by the authorized officer, all robbery, all pillage or sacking, even after taking a place by main force, all rape, wounding, maiming, or killing of such inhabitants, are prohibited under the penalty of death, or such other severe punishment as may seem adequate for the gravity of the offense.

A soldier, officer, or private, in the act of committing
such violence, and disobeying a superior ordering him to abstain from it, may be lawfully killed on the spot by such superior.

47. Crimes punishable by all penal codes, such as arson, murder, maiming, assaults, highway robbery, theft, burglary, fraud, forgery, and rape, if committed by an American soldier in a hostile country against its inhabitants, are not only punishable at that time, but in all cases in which death is not inflicted, the more severe punishment shall be preferred.

Section X. --Insurrection--Civil War--Rebellion.

155. All enemies in regular war are divided into two general classes— that is to say, into combatants and non-combatants, or unarmed citizens of the hostile government.

The military commander of the legitimate government, in a war of rebellion, distinguishes between the loyal citizen in the revolted portion of the country and the disloyal citizen. The disloyal citizens may further be classified into those citizens known to sympathize with the rebellion without positively aiding it, and those who, without taking up arms, give positive aid and comfort to the rebellious enemy without being bodily forced thereto.

156. Common justice and plain expediency require that the military commander protect the manifestly loyal citizens in revolted territories against the hardships of the war as much as the common misfortune of war admits.
The commander will throw the burden of the war, as much as lies within his power, on the disloyal citizens, of the revoluted portion or province, subjecting them to a stricter police than the non-combatant enemies have to suffer in regular war; and if he deems it appropriate or if his government demands of him that every citizen shall, by an oath of allegiance, or by some other manifest act, declare his fidelity to the legitimate government, he may expel, transfer, imprison, or fine the revoluted citizens who refuse to pledge themselves anew as citizens obedient to the law and loyal to the government.

Whether it is expedient to do so, and whether reliance can be placed upon such oaths, the commander or his government have the right to decide.

157. Armed or unarmed resistance by citizens of the United States against the lawful movements of their troops is levying war against the United States, and is therefore treason.
The Course of Civil War Raids Through Alabama
NOTES

CHAPTER I


2 Ibid., p. 169.


4 Borchard, "International Law, p. 170.


6 Ibid., p. 427.

7 Ibid.

8 Ibid.

9 Ibid., p. 428.

10 Ibid., pp. 428-429.

11 Ibid., p. 457.

12 Ibid., p. 456.

13 Ibid., p. 442.

14 Ibid., p. 461.

15 Ibid.

16 Ibid., p. 459.

17 Ibid., p. 464.

18 Ibid., pp. 462-463.

19 Ibid., p. 466.


22 Randall, Constitutional Problems, p. 219.
NOTES

CHAPTER II


2. Ibid.

3. Ibid., p. 112.


5. Ibid., pp. 16-17.


7. See appendix for test of General Orders No. 20.


9. Ibid., II:172.

10. Ibid., II:170.


15. Military members of the Board were Generals W. W. Howe, N. B. Buford, H. W. Halleck, C. E. Dutuold, A. D. Bache, J. P. Usher, and H. Fish.

16. Lieber made greatest use of Halleck, International Law, although privately he considered it inferior to August W. Heffter, Das Europäische Völkerrecht der Gegenwart. Of the classic treatises, he also consulted Hugo Grotius, Cornelius van Bynkerhoek, and Samuel Pufendorf, but scorned "old" Vattel as "Father Namby-Pamby." ...Among the contemporaries, he strongly disapproved of William Beach Lawrence's edition of Henry Wheaton, which he considered too state rights. ...The works of the following were in his library or referred to in his library or referred to in his writings: C. S. Zachariae, Adolph Trendleburg, C.F. von Martens, Robert Phillimore, Sir...
CHAPTER II NOTES CONTINUED


17 All paragraphs of General Orders No. 100 applicable to this paper can be found in appendix.


20 Ibid., p. 152.

21 Ibid., p. 150.

22 Winthrop, Digest of Opinions, pp. 382-383.

23 O.R., I, XXXII, p. 280.
NOTES

CHAPTER III


6Ibid., p. 122.


8Hinman, The Story of the Sherman Brigade, p. 128.


10Hinman, The Story of the Sherman Brigade, p. 128.


12Ibid., p. 703.


17Ibid., pp. 174-175.
III CONTINUED

18 Ibid., p 204.
19 Ibid., pp. 212-213.
20 Johnson and Buel, Battles and Leaders..., p. 706.
22 Ibid., pp. 273-274.
23 Ibid., p. 275.
24 Ibid., p. 276.
25 Ibid.
26 Ibid., p. 277.
27 Ibid.
29 Ibid., p. 222.
30 Ibid., p. 229.
33 Ibid., p. 125.
34 O.R. I, SVI, part I, p. 495.
36 Ibid.
38 Ibid., p. 121.
40 Wills, Army Life of an Illinois Soldier, p. 204.
III CONTINUED

41 Ibid., pp. 207-208.


43 Sterkx, Partners in Rebellion, p. 177.


48 Ibid.

49 Ibid., p. 297.

50 Ibid.

51 Ibid., p. 292.

52 Ibid., p. 296.

53 Hartpence, History of the Fifty-First Indiana Veteran Volunteer Infantry, p. 283.

54 Timothy H. Ball, A Glance into the Great South-East, or Clarke County, Alabama (Chicago: Press of Knight Leonard, 1879), p. 289.

55 B. F. Riley, History of Conecuh County Alabama (Columbus, Georgia: Thomas Gilbert, Printer, 1881), p. 173.


57 Ibid., pp. 145-146.

58 Ibid., pp. 155.


61 Ibid.

NOTES

CHAPTER IV


3. O.R. I, XXIII, p. 245.

4. Ibid., p. 250.

5. Ibid., I, XXXVIII, part III, p. 976.

6. Ibid., pp. 976-977.


15. John Hardy, Selma; Her Institutions and her Men (Selma, Alabama: Times Book and Job Office, 1879), p. 46.

16. Ibid., p. 51.


19. Hardy, Selma, pp. 52-53.


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CONCLUSION:

1Hinman, *The Story of the Sherman Brigade*, p. 229

APPENDIX I


APPENDIX II


MAP

McMillan, *The Alabama Confederate Reader*. 
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