

The Great Healing: Reconciliation After the Civil War

The end of war often brings recriminations against the losing side, but amnesties by Presidents Lincoln and Johnson set the American nation back to healing after the Civil War.



Warmakers turned peacemakers: Lincoln and his generals Philip Sheridan, Ulysses S. Grant, and Fitz John Porter were among the first to prosecute the war against the South, but also became leaders in bringing about a quick and lasting peace.

by *Thomas R. Eddlem*

“**F**ondly do we hope, fervently do we pray, that this mighty scourge of war may speedily pass away,” President Abraham Lincoln said in his second inaugural address March 4, 1865. Although Lincoln also talked about paying any price to win the war for the Union in the speech, he had set the tone for the restoration of peace through a policy of amnesty and forgiveness: “With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in, to bind up the nation’s wounds, to care for him who shall have borne the battle and for his widow and his orphan, to do all which may achieve and cherish a just and lasting peace among ourselves and with all nations.”

At that time, the four-year-long war between the states that had begun in 1861 still raged on. But the conclusion of the bloodiest war in American history by that time was already inevitable. The North had a navy, more people, and far more industries. The war of attrition waged by General Ulysses Grant had by March of 1865 all but destroyed both the men and resources of the South, even though his Union forces

ended up losing 30,000-60,000 more soldiers than the Confederacy.

It wasn’t an easy choice for Lee to concede defeat, and Confederate General Robert E. Lee had to overrule the recommendations of some of his subordinate generals to carry on the fight using guerrilla warfare. Artillery officer and Brigadier General E. P. Alexander had recommended Lee instead break up his army into guerrilla units that would report to state governors or General Joseph E. Johnston’s Army of Tennessee. According to Alexander’s memoirs, Lee replied:

If I took your advice, the men would be without rations and under no control of officers. They would be compelled to rob and steal in order to live. They would become mere bands of marauders, and the enemy’s cavalry would pursue them and overrun many wide sections they may never have occasion to visit. We would bring on a state of affairs it would take the country years to recover from.

The reply in favor of restoring the peace and surrendering honorably left Alexander speechless: “I had not a single word

to say in reply. He had answered my suggestion from a plane so far above it, that I was ashamed of having made it.”

By the time Robert E. Lee surrendered his Confederate Army of Northern Virginia at Appomattox Court House on April 9, 1865, Union General Grant issued terms in harmony with the sentiments expressed in Lincoln’s second inaugural address of a month earlier. Officially, the Union demanded the unconditional surrender of Confederate forces. But Grant’s terms to Lee allowed for the “parole” of Confederate soldiers, who would be allowed to go back to their farms and workshops:

The arms, artillery, and public property to be parked and stacked, and turned over to the officers appointed by me to receive them. This will not embrace the side-arms of the officers nor their private horses or baggage. This done, each officer and man will be allowed to return to his home, not to be disturbed by United States authority so long as they observe their paroles and the laws in force where they may reside.

Lee accepted Grant’s terms and surren-

dered his troops, which, as it turned out, essentially ended the war. Other Confederate armies across the South surrendered over the next two months under nearly identical terms. When Union General William Sherman met with Confederate General Johnston on April 17 to discuss the surrender of Johnston's Army of Tennessee, Sherman recalled in his memoirs, "I ... told Johnston that he must be convinced that he could not oppose my army, and that, since Lee had surrendered, he could do the same with honor and propriety. He plainly and repeatedly admitted this, and added that any further fighting would be 'murder.'" Johnston surrendered a few days later, on April 26.

Lee noted in his April 10 farewell address to his troops that he had concluded "valor and devotion could accomplish nothing that could compensate for the loss which would have attended the continuation of the contest, [and] I have determined to avoid the useless sacrifice of those whose past services have endeared them to their countrymen." Lee publicly and privately urged former Confederates throughout the rest of his life to reconcile themselves to the U.S. government and take up again their civilian occupations, even when his personal fate was unclear. In June 1865, a federal grand jury in Virginia indicted him for "treason," though the parole Lee had signed with Grant prevented the prosecution from moving forward.

Lincoln's peace was in line with the best interest of the nation, and helped to prevent an ongoing guerrilla war along the lines recommended by Confederate General Alexander. It also comported with developing rules of civilized warfare, which generally required treatment of enemy troops as honorable men who had merely chosen the wrong side in a war. Lincoln himself had signed General Order 100 on April 24, 1863, establishing a code in wartime that has since been called the Lieber Code. The Lieber Code — written by German immigrant Francis Lieber — was a precursor to the international Geneva Conventions of the late 19th and early 20th centuries and played a key role in the presidential amnesties that followed. In general, the Lieber Code — along with the peace policy followed by President Lincoln — assumed that Confederate soldiers would not be tried



Honorable peace: After a brutal war, Union and Confederate forces followed the example of forgiveness exemplified by the accords at Appomattox Court House between Union General Ulysses S. Grant and Confederate General Robert E. Lee.

for treason against the U.S. government, despite the then-prevailing "perpetual union" ideology in the Lincoln administration which made treason trials possible.

Secession and Hypocrisy

Part of Lincoln's policy of forgiveness for what he viewed as a rebellion may have had to do with the fact that his own view on whether states had a right to secede — as the Southern states that did secede claimed — was anything but consistent. As a freshman congressman during the Mexican-American war, Lincoln had championed the idea of secession as among the "most sacred of rights" when he had described Texas seceding from Mexico in 1836. Lincoln told his fellow congressmen in 1848 that secession was the principle "I believe was yet to liberate the world; the right of a people, if they have a government they do not like, to rise and shake it off. In the exercise of that right, the Texans shook off the Mexican yoke."

But by the time Lincoln was president of the United States in 1861 and Texas had already decided to secede, President Lincoln held an entirely different view.

In Lincoln's first inaugural address, the first Republican Party president claimed, "I hold, that in contemplation of universal law, and of the Constitution, the Union of these States is perpetual. Perpetuity is implied, if not expressed, in the fundamental law of all national governments. It is safe to assert that no government proper, ever had a Provision in its organic law for its own termination." It was a flat-out contradiction of his earlier statement.

Lincoln's "perpetual union" theory was in flat contrast to the "compact theory" of the states practiced by the Founding Fathers. For example, the Founders did not force Rhode Island to recognize the 1787 Constitution, allowing it to become an independent nation for several years after the end of Articles of Confederation until it ratified the current Constitution in mid-1790 on its own. By the time Rhode Island re-joined the Union, George Washington had been elected the first president and a Congress had been elected, and it had passed the Judiciary Act of 1789, the first tariff, and proposed 12 amendments to the new Constitution — 10 of which became the Bill of Rights.

Officially, the Union demanded the unconditional surrender of Confederate forces. But Grant's terms to Lee allowed for the "parole" of Confederate soldiers, who would be allowed to go back to their farms and workshops.

As the war ended, leaders of the Confederacy generally were not hunted down and thrown into prison. Robert E. Lee went on to peaceful civilian pursuits, as did most Confederate leaders.

Lincoln would flip-flop again on secession just two years after Fort Sumter, signing a bill that made unionist West Virginia a state, even though it had seceded from the Commonwealth of Virginia, which according to Lincoln's "perpetual union" theory was still part of the Union. Yet making the western part of Virginia a new state clearly violated Article IV of the U.S. Constitution, which requires that "no new states shall be formed or erected within the jurisdiction of any other state; nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned as well as of the Congress."

And it violated the premise undergirding the Northern war effort against the South — that the North was putting down an armed rebellion, not invading another country. On the other hand, many Southerners at the beginning of the war had greater allegiance to their state than the United States, and they joined the Southern army in an attempt to defend their homes against the invading Union forces.

Lincoln's Lieber Code was ambiguous about how to treat leaders of the Confederacy, even if it implied amnesty for the rank-and-file soldiers. Article 154 explained what to do with soldiers in a civil war or secession: "Treating, in the field, the rebellious enemy according to the law and usages of war has never prevented the legitimate government from trying the leaders of the rebellion or chief rebels for high treason, and from treating them accordingly, unless they are included in a general amnesty."

As the war ended, leaders of the Confederacy generally were not hunted down and thrown into prison. Robert E. Lee went on to peaceful civilian pursuits, as did most Confederate leaders. Confederate President Jefferson Davis alone was thrown into a dungeon at Fort Monroe, Virginia, where he was placed in leg irons for months. Only after the camp physician complained that Davis' life was in danger was Davis' treatment improved. A trial for Jefferson Davis on treason charges under

the perpetual union ideology remained a genuine possibility, and a scattered chorus of Union publications across the nation cried out for at least this token example of blood from the defeated South.

President Johnson

Lincoln was assassinated a week after the armistice at Appomattox, further complicating the peace process. Taking Lincoln's place was Vice President Andrew Johnson, a hard-drinking former Tennessee Democratic senator who had no love for either the former slaves or the secessionists. But despite a host of political and personal defects, Johnson tried to continue Lincoln's policy of initiating national healing.

Just days after the surrender of General Kirby Smith, with the last major Confederate army in the field, President Johnson issued a May 29, 1865 amnesty in order "that the authority of the government of the United States may be restored, and that peace, order, and freedom may be established." Though Johnson's limited amnesty contained a dozen exceptions to a general amnesty, exempting most Confederate leaders and ranking officers from the amnesty, the amnesty would wipe any crime from the record so long as the sol-

diers swore an oath pledging to "support, protect, and defend the Constitution of the United States." This broad amnesty of Confederate soldiers, who theoretically could have been tried for treason, included as many as 1,000,000 soldiers.

Legally, amnesty — a full pardon — wipes out an offense as if it were never committed in the first place. But Johnson's amnesty exempted both some people as well as some property already seized by the U.S. government from Confederate soldiers. Johnson's 1865 amnesty exempted top Confederate officials and people who had before the war sworn an oath of loyalty to the U.S. Constitution (former congressmen, judges, soldiers and the like) who fought for the Confederacy. It also exempted war criminals and international piracy.

The trial of top Confederate officials on charges of treason remained possible, if increasingly unlikely, as time went on. Top secessionists remained popular in the South. Confederate Vice President Alexander Stephens had been elected by the unreconstructed Georgia legislature to the U.S. Senate in 1865, as had dozens of former Confederate officers and politicians across the South. Stephens, along with all other Southern officials elected in the wake of the war, was not seated in Congress because of pressure from the "Radical Republicans" who controlled Congress.

President Johnson ultimately decided against prosecuting top Confederate lead-



Surrender of Johnston: The terms of surrender for General Joseph E. Johnston's forces in North Carolina to General Sherman were almost identical to the terms given to General Robert E. Lee.

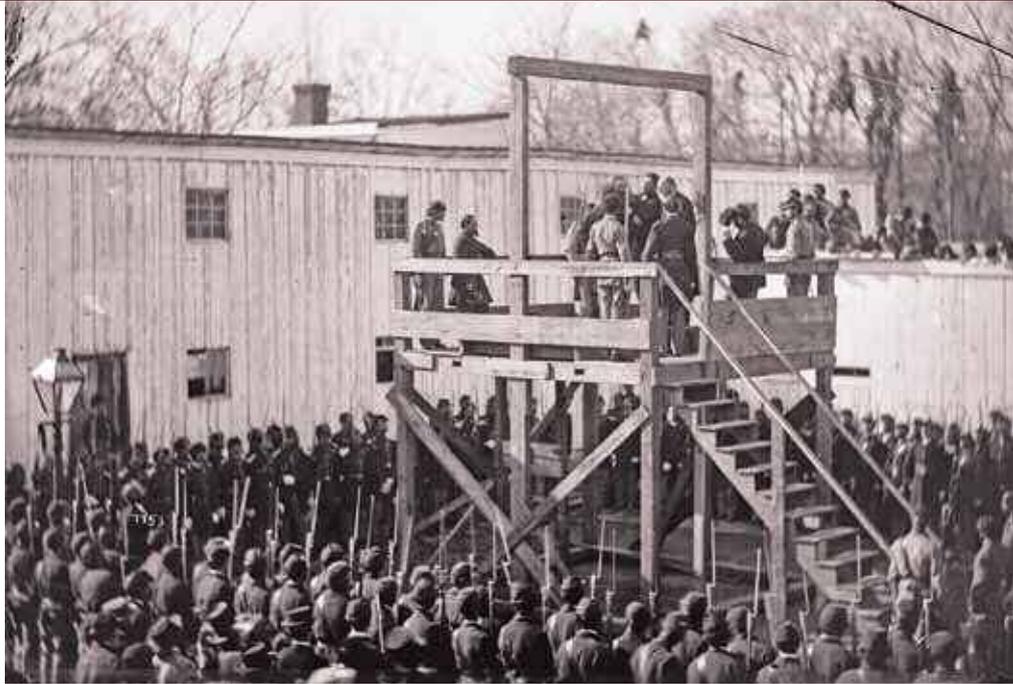
ers for pursuing the secession, and the only persons brought up on charges were the conspirators in the Lincoln assassination conspiracy and Henry Wirz, the commandant of the Confederate prison at Andersonville, Georgia. Andersonville prison ran out of resources in 1865 — especially food and medicine — along with the rest of the Confederate army, and had an atrocious death rate among prisoners of 10 percent per month. This death rate was not much higher than at the Union prison at Elmira, New York, but Wirz was charged anyway. The similarly high death rates at Andersonville and Elmira have led to the rumor that Wirz was merely made a scapegoat by vindictive Union officials for simply not having enough food to feed his prisoners. But Wirz was actually put to death after a military commission trial for personally murdering (or ordering the murders of) a dozen Union prisoners of war in 1864, before the camp's resources ran out.

Continuing a Trail of Destruction

The only exception to the accolades that may be granted to the Lincoln-Johnson plan of presidential amnesty is the fact that several prominent war criminals were essentially told there were few consequences for crimes against human rights. Several officers on both sides of the war engaged in atrocities that were clear violations of the Lieber Code, as well as common morality.

But in these particular cases, amnesty for war criminals simply led the perpetrators to believe that they could do anything, including continue their depredations. And many of them did continue their barbarities in both government service and private practice, often in the same way as the atrocities were committed during the war.

Confederate General Nathan Bedford Forrest's troops had massacred hundreds of black soldiers who had already surrendered at Ft. Pillow in 1864. In a letter to Union Major General C. C. Washburn — after Washburn had complained of a similar massacre of black soldiers by Forrest's men at Brice Crossroads — Forrest denied charges of the Ft. Pillow massacre as “unfounded and unwarranted by the facts,” claiming instead, “I have conducted the war on civilized principles.” But there was overwhelming evidence from dozens of eyewitnesses, including some Confed-



The lone Confederate tried for crimes: Andersonville prison Commandant Henry Wirz was the only Confederate soldier hanged for war crimes, despite the assumption by many in the North that Confederate leaders would be tried on treason charges after the war.

erate soldiers under Forrest's command, that black soldiers and their white officers had been massacred.

Forrest — who owned a lucrative slave-trading business in Memphis before the war — added in his letter to Washburn, “I regard captured negroes as I do other captured property, and not as captured soldiers,” which had been official Confederate policy at least since Confederate President Jefferson Davis propounded General Orders 111 in December 1862 that stated, “All negro slaves captured in arms be at once delivered over to the executive authorities of the respective States to which they belong to be dealt with according to the laws of said States.” In other words, black Union soldiers would be put to death, which was the penalty for those engaging in slave rebellion. The Confederate Congress reinforced Davis' policy by passing the Retaliatory Act in 1863. Moreover, Union officers in charge of black regiments were essentially viewed as leading slave rebellions by Forrest's men, no better than the pre-war terrorist John Brown. Forrest's men took the surviving ranking officer of Ft. Pillow, Major William F. Bradford, several miles out into the woods and shot him dead the following morning.

Forrest — unmolested by the law at the end of the war — continued his massacres

of black men and white sympathizers as a founder and first national leader of the Ku Klux Klan.

Confiscation of Property

The healing of the nation also became threatened by a wave of property confiscations under the guise of punishing Confederates. By the end of the war, Union officials had not just seized and freed the slaves living in areas still under the control of the Confederacy at the time of the Emancipation Proclamation, but Union officials had confiscated many plantations as well. Union Major-General William T. Sherman had issued General Field Order 15 in January 1865, which provided for redistribution of the 400,000 acres of seized land along Atlantic states from Confederate soldiers to freed slaves.

Johnson's May 1865 amnesty had not restored the personal property of Confederates, noting the amnesty would not include “cases where legal proceedings, under the laws of the United States providing for the confiscation of property of persons engaged in rebellion, have been instituted.” President Johnson reversed Sherman's field order that fall, but many former private properties remained in government hands. A wider confiscation of private property remained possible,

and the Radical Republican faction of the Republican Party in control of Congress sought to do just that.

The Radical Republicans saw their chance in 1867, with a Republican veto-proof majority in both Houses of Congress, when Congress passed four laws that collectively became known as the Reconstruction Acts. Radical Republican Congressman Thaddeus Stevens proposed just that type of property confiscation, noting in a January 3, 1867 speech in the House of Representatives, that he hoped Congress would take up the idea of property confiscation again, exclaiming: “The rebel States, before admission, should be made republican in spirit, and placed under the guardianship of loyal men, [or] all our blood and treasure will have been spent in vain. I waive now the question of punishment which, if we are wise, will still be inflicted by moderate confiscations, both as a reproof and example.”

Despite Stevens’ lobbying, Congress enacted no new confiscation of property with the Reconstruction Acts. Gradually, former Confederates were able to reclaim their pre-war plantations through the court system, or as state legislatures reasserted themselves in the wake of military rule imposed by the Reconstruction Acts. Briarfield, Jefferson Davis’ old Mississippi plantation, would be tied up in the court system for almost another decade.

Stevens also sought disenfranchisement of Confederate soldiers, along with granting freed slaves the vote in a naked attempt to make the Republican Party dominant nationally:

Another good reason is, it would insure the ascendancy of the Union party. Do you avow the party purpose? exclaims some horror-stricken demagogue. I do. For I believe, on my conscience, that on the continued ascendancy of that party depends the safety of this great nation. If impartial suffrage is excluded in the rebel States then everyone of them is sure to send a solid rebel representative delegation to Congress, and cast a solid rebel electoral vote. They, with their kindred Copperheads of the North, would always elect the President and control Congress.

Stevens and his radical Republicans won that battle, as Congress limited the vote of Confederate veterans — at least temporarily — despite attempts by President Johnson to use his power of pardon to restore that right.

That same Congress saw the ratification of the 14th Amendment, Section 2 of which punished the disenfranchisement of citizens “except for participation in rebellion, or other crime.” Confederate veterans were also prohibited from holding federal or state government offices under Section 3 of the 14th Amendment if they had taken an oath of loyalty to the U.S. Constitution before the war and afterward joined the Confederacy.

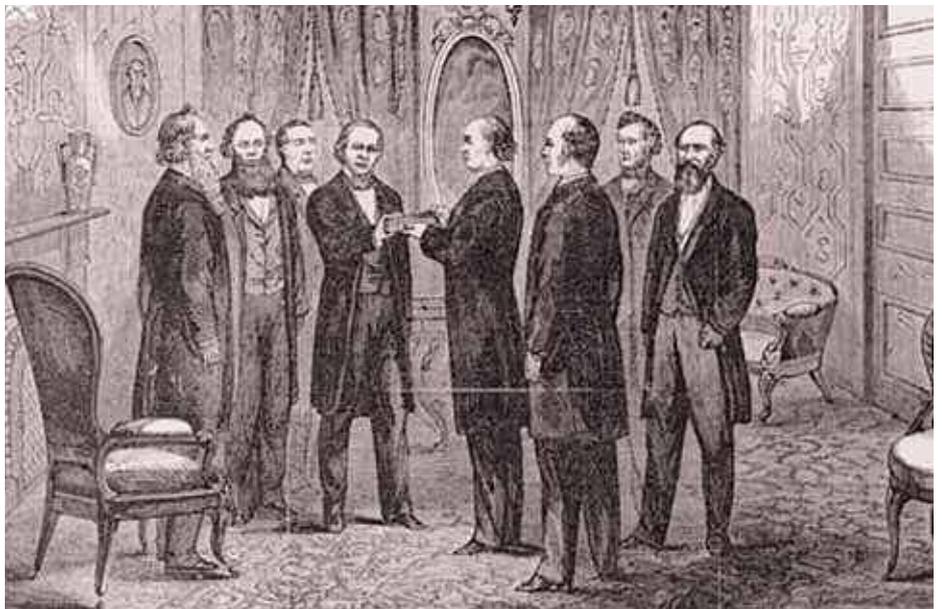
Johnson’s 1868 Pardon

The final act of what could be called the “great healing” was President Johnson’s Christmas Day pardon in 1868. Johnson — who had issued a pardon with fewer restrictions in 1867 than in 1865 — now made the pardon unconditional for all combatants, proclaiming “by virtue of the power and authority in me vested by the Constitution and in the name of the sovereign people of the United States, do hereby proclaim and declare unconditionally and without reservation, to all and to every person who, directly or indirectly, participated in the late insurrection or rebellion a full pardon and amnesty for the offense

of treason against the United States or of adhering to their enemies during the late civil war, with restoration of all rights, privileges, and immunities under the Constitution and the laws which have been made in pursuance thereof.” Johnson issued “an universal amnesty and pardon for participation in said rebellion ... to secure permanent peace, order, and prosperity throughout the land, and to renew and fully restore confidence and fraternal feeling among the whole people, and their respect for and attachment to the National Government, designed by its patriotic founders for the general good.”

Even the surviving members of Lincoln’s assassination conspiracy (Samuel Arnold, Dr. Samuel Mudd, and Edmund Spangler) were pardoned the following year in one of the last acts of Johnson’s presidency.

The amnesties blunted moves toward cycles of retribution and helped heal the nation that nevertheless continued to struggle with the role for freed African-Americans. The amnesties, and the willingness too of Robert E. Lee to work for reconciliation, serve as examples of Christ-like forgiveness, and help explain why guerrilla wars did not continue for decades as some nations have endured after their own civil wars, and are a source of national historical pride. ■



Johnson becomes president: When Andrew Johnson took the oath of office after Lincoln’s assassination, he was a relative unknown, and it was unclear how he would bring about the peace. But despite a bevy of faults, he did not act vindictively toward the defeated Confederates.