From Pragmatism to Hard War

laws rigidly, or when "a more lenient course is of greater advantage to our cause." Even so, Halleck continued, Rosecrans should always make distinctions among the inhabitants of areas in which his army operated, and he went on to outline the tripartite division that had become common among Federal commanders. "The people of the country in which you are likely to operate may be divided into three classes," Halleck wrote. The first class embraced the "truly loyal, who neither aid nor assist the rebels, except under compulsion, but who favor or assist the Union forces." Halleck advised that unless absolutely necessary, Union forces should refrain from requisitioning supplies from such people, who should receive active protection. If it became necessary to take their property, for whatever reason, they should either be paid in cash or else fully indemnified, with receipts given.

The second class encompassed those "who take no active part in the war, but belong to the class known in military law as noncombatants." Strictly speaking, to be sure, they were noncombatants by courtesy only, since in a civil war there was no such thing as neutrality — one was either a loyal citizen or an enemy sympathizer. Even so, "so long as they commit no hostile act, and confine themselves to their private avocations," they should be left alone as much as possible — "nor is their property to be seized, except as a military necessity." However, they remained subject to forced loans, military requisitions, and to have their houses used as soldiers' billets. If they remained passive, they would be accorded protection. But if after receiving protection they took up arms against the occupiers, or aided and abetted the enemy, then they would become "war rebels, or military traitors" — the penalty for which was death, and for the seizure of their property.

The third class consisted of those who did not bear arms for the enemy but who remained "opponent and obviously hostile to the occupying army." For such people Halleck authorized severe measures:

Such persons not only incur all the obligations imposed upon other non-combatant inhabitants of the same territory, and are liable to the same punishment for offenses committed, but they may be treated as prisoners of war, and be subjected to the rigors of confinement or expulsion as combatant enemies. I am of the opinion that such persons should not, as a general rule, be permitted to go at large within our lines. To force those capable of bearing arms to go within the lines of the enemy adds to his effective forces; to place them in confinement will require guards for their safekeeping, and this necessarily diminishes our active forces in the field. You must determine in each particular case which course will be most advantageous. We have suffered very severely from this class, and it is time that the laws of war should be more rigorously enforced against them. A broad line of distinction must be drawn between friends and enemies, between the loyal and the disloyal."