

The Union Prison at Fort Delaware

A Perfect Hell on Earth

BRIAN TEMPLE



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Exchanges and the Writ of Habeas Corpus

On April 27, 1861, Lincoln ordered Lt. Gen. Winfield Scott to release the following statement:

You are engaged in repressing an insurrection against the laws of the United States. If at any point on or in the vicinity of the military line which is now used between the city of Philadelphia via Perryville, Annapolis City and Annapolis Junction you find resistance which renders it necessary to suspend the writ of habeas corpus for the public safety, you personally or through the officer in command at the point where resistance occurs are authorized to suspend that writ.¹

A writ of habeas corpus orders the authorities to bring a prisoner before a court or judge. Habeas corpus means “you should have the body.” It is an important part of the Constitution that protects the citizens of the United States from arbitrary imprisonment.² The idea of the suspension was to allow army officers to arrest and hold without trial anyone suspected of being a traitor if it was assumed that the courts and civil authorities were being sympathetic to treason. The suspension was enacted only two days after Federal troops entered Washington, D.C. The timing of this action was important. In the early days of the war, Lincoln was afraid that the capital would be cut off from the rest of the Union. If Washington was cut off, then any type of action would be considered pointless. The concern Lincoln had about this situation had merit because the capital of the North shared a border with a Confederate state, Virginia, and with Maryland, which had a strong pro-Southern faction. This left Lincoln in a weakened situation and unable to act in a decisive manner. When the

troops finally arrived at the capital, Washington was no longer isolated and those fears had dissipated. Once he felt that he was on solid ground again, Lincoln was free to use his power to try and shore up the Union.³

Not everyone went along with the idea of the suspension. Chief Justice Roger B. Taney declared on May 26, 1861, that the military arrest of John Merryman in Maryland was illegal and Lincoln had no right to suspend the writ of habeas corpus. He then issued a writ on Merryman. The President, in turn, felt that he had the power to do so in cases of rebellion or invasion in the interest of public safety. Lincoln expanded the range of the suspension on July 2, 1861, to go along or near the military line between New York City and Washington, D.C. On October 14, 1861, he expanded its influence to stretch from Bangor, Me., to Washington if it was necessary to stop any suspected subversion.⁴

Secretary of State Seward was in charge of internal security at the outbreak of the war and was responsible for the political arrests that the suspension created in 1861. The responsibility for internal security was then given to Edwin Stanton when he became Secretary of War in January 1862. Before he was placed in charge, Stanton asked Lincoln's permission to release all but the most dangerous prisoners if they would promise not to help the enemy and not to sue the country for false imprisonment. The President agreed to his request and Stanton became quite popular for a time because of these actions, but it changed quickly when the arrests began again, especially in 1862 and 1863. The majority of those arrested as a result of the suspension were released within a matter of days or weeks. The suspension had allowed a great deal of latitude in dealing with the rebellion. Unfortunately, this kind of sweeping power led to abuses of it and some of the victims of these abuses ended up at Fort Delaware.⁵

Civil power had been suspended in Maryland and martial law established. In the fall of 1861, military squads went to Queen Anne and Talbot counties to arrest people for "disloyalty" if they did not vote for the Union candidate.⁶ The Maryland armory at Easton was sacked on a Sunday by a company of Union soldiers, who carried off public and private property. Provost marshals were appointed and anyone who spoke out against the federal government was arrested.

The situation became so bad that a grand jury, presided over by the Hon. Richard B. Carmichael, judge of the Circuit Court, indicted the worst offenders for their misuse of authority and ordered them arrested in May 1862. They were not arrested immediately because they were out of town. On May 25, they returned to Easton with the help of the clerk of the court, Samuel T. Hopkins, and they brought with them J. K. McPhail of Baltimore, a hatmaker who had been appointed as a marshal. Their orders were to arrest Judge Carmichael.

On the 28th of May, McPhail and some policemen entered the judge's courtroom. The courthouse was mostly empty because of the ringing of the hotel dinner bell, but it was in session. McPhail and his men tried to arrest Carmichael while he sat on the bench, listening to a case. The judge demanded to see their papers and they, in turn, drew their pistols. They rushed the bench, beat the Judge with their

weapons and dragged him from the courtroom. Isaac C. Powell, Esq., who was acting as a counsel that day, was arrested along with two others, while the other people in the courtroom were driven away with the threat of pistols. The four men received no trial and were thrown into prison.⁷ General Lorenzo Thomas ordered Powell and William Nabb on September 27 to be sent from Fort Lafayette to Fort Delaware,⁸ where they arrived on October 1, 1862. Judge Carmichael had arrived there a few days earlier, after spending six weeks at Fort McHenry and two months at Fort Lafayette.

Judge Carmichael sent President Lincoln a copy of what he had stated at the grand jury and informed him of the circumstances of his arrest. The President stated to Senator James A. Pierce of Maryland that he thought that Carmichael and the three men arrested with him should be set free, but that Secretary of War Stanton objected.⁹ The objection became obvious when on October 29th, Major Burton received orders from Secretary Stanton that the order to release the judge be cancelled.¹⁰

While they were at Fort Delaware, the two men observed that Major Henry Burton, the commander of the fort, "deported himself toward the prisoners as an officer and a gentleman; and never descended from his position, in either capacity, to an act of meanness or oppression." He put the four men on parole and allowed them to roam freely on the grounds of the fort. He also allowed them to keep anything sent by friends that would make them more comfortable.

On December 4, 1862, Judge Carmichael was released from prison. He was never read the charges that were brought against him during the entire six months that he spent in Union prisons. Isaac Powell was released four days later by Col. Perkins, the new commander of the fort, when Stanton sent a letter to Perkins stating, "You will immediately release I.C.W. Powell, a prisoner, who is said to have been arrested at the same time as Judge Carmichael, and who is said to be now at Fort Delaware."¹¹

The Hon. Madison Y. Johnson lived in Galena, Illinois, and practiced law there. He was also a personal friend of President Lincoln, having been a member of the Whig party with the future president. Mr. Johnson was a believer in striving for a peaceful solution to the conflict between the North and South. When the war broke out, he was still an advocate of peace. A mass meeting was held in Springfield, Ill., during the war and Mr. Johnson was the author of a peace resolution which was passed at the time. It said:

Resolved, That the further offensive prosecution of the war tends to subvert the Constitution and Government, and entail upon the nation all the disastrous consequences of misrule and anarchy. That we are in favor of peace upon the basis of a restored Union; and for the accomplishment of which, we propose a National Convention to settle upon terms of peace, which shall have in view the restoration of the Union as it was, and the securing by constitutional amendments such rights to the States and the people thereof as honor and justice demand.

Apparently someone in the federal government took a dim view of Mr. Johnson's opinions because on August 28, 1862, while working as a defense council on a murder case, he was arrested while court was in session by a U.S. marshal on the

order of Secretary of War Stanton. There was no warrant or charges brought up against him. After being sent to four different prisons, he was finally sent to Fort Delaware. Mr. Johnson's friends worked hard to either have him freed or to be put on trial. The Governor of Illinois tried to have him returned to Illinois for trial, but the request was refused. The reasoning was, since he was not charged with a crime, there was no case to try. If there was no case to try, then there was no reason to send Johnson back to Illinois. His friends refused to allow this setback to stop them and continued to fight for him. They were so persistent in their efforts to free him that Lincoln said to Mr. Hunkins, one of Johnson's friends, that "Mr. Johnson has given us more trouble than all the political prisoners." Their hard work paid off when Johnson was freed after staying at Fort Delaware for four months.¹²

Warren J. Reed was a schoolteacher and a justice of the peace for Murderkill Hundred, Kent County, Delaware. He was active in politics and an outspoken supporter of state's rights and free speech. In September 1862, two soldiers came to arrest Reed while he was teaching school. They showed him their weapons, told him that he was their prisoner, and ordered him to immediately shut down the school. He was not allowed to return to his home to pick up money or extra clothes, even though his home was only a mile away. Instead, he was put into a carriage and quickly taken to Felton Station on the Delaware Railroad. He was then transported to a hotel and left in a room with a guard. Reed was then placed on the Wilmington train when it arrived. One of the arresting soldiers sat beside him and the other one, with a companion, sat behind him. On arrival in Wilmington at 9:00 P.M., he was escorted by a squad of soldiers to a room on the 4th floor with some of the soldiers standing guard outside his room.

After breakfast, Reed was brought before Col. A.H. Grimshaw, the commander of a Delaware regiment. The prisoner demanded to know what the charges were against him. The colonel, in a voice barely above a whisper, said something like it was all right. Reed was then ordered to stand against a wall while information such as his height, weight, color of eyes, place of residence was being obtained. Then he heard someone outside cry out "All ready?" The answer was yes and Reed, with two other prisoners, was escorted outside, and taken away. The three prisoners had no idea where they were going until they arrived at Delaware City at around 2:00 P.M.

After eating at the hotel there, a small boat was hired to take the prisoners across the channel to Fort Delaware. The boatmen hired to take the men to the prison at first refused to go because the wind was blowing hard and the water was so rough that they thought that it was too dangerous to attempt the trip. The officer in charge insisted and Reed, with three to four others, was put on the boat and taken to the fort safely by dark. On arrival, they were immediately taken to the headquarters of Major Henry Burton, the commandant. He was not there at the time, but another officer had the prisoners taken to a room on the second floor, which was about forty feet by twenty feet in size. Exhausted by their journey, the prisoners immediately lay down on the floor and went to sleep. Reed used a piece of a broken box as a pillow and fell asleep with no blanket.

The next morning, Reed awoke at daybreak and looked around the room he had been placed in. He saw three rows of sleeping prisoners, stretched lengthwise on the floor, each covered with a blanket. There was no fire in the room to keep the men warm. All of the 25-30 men in the room were political prisoners. None of them had had a trial or been charged with a crime.

After a month, Reed was released thanks to friends writing to Secretary Stanton for his freedom. Stanton issued the release order, but George P. Fisher, a Delaware representative, with three other men, wrote letters to Major Burton asking him, on their responsibility, to keep Reed until they could get the release order overturned. Their reasoning was that there was going to be an election in the near future and they considered it vital that Reed stay at Fort Delaware because his release would be disastrous in their eyes. Burton ignored the letters and released Reed. The major may have ignored the letters, but the letter writers did not ignore him. By the following Monday, Burton was removed from his position and not given another command for fifteen months.¹³

Edward S. Sharpe was a doctor from Salem, N.J., who was on a steamboat traveling to Philadelphia in late 1862 when he made remarks complaining about President Lincoln's war policies. Three Army officers overheard him and immediately arrested Dr. Sharpe. They then commanded the captain of the boat to change direction and take them to Fort Delaware. The boat landed on Pea Patch Island and Dr. Sharpe was taken to the prison. Once word of Dr. Sharpe's arrest had gotten out, a group of prominent citizens from New Jersey went to the officers in charge of the fort to plead for Dr. Sharpe's release due to his background and the high standing he held in the community. He was released after being held three weeks.¹⁴ His roommates in prison were Isaac Powell and Madison Johnson.¹⁵

The Rev. Isaac Handy was a Presbyterian minister from Virginia who, with his family, was visiting his father-in-law in Delaware on an unconditional legal pass in June 1863. He was ordered to report to Fort Delaware on June 21, 1863, to answer charges of being a chaplain in the Confederate Army and making disparaging remarks about the American flag. When he arrived at the fort, General Schoepf, the commandant, asked him if he ever made the remarks he was accused of and Handy did not deny that he said what he was accused of saying. With that, he was escorted to his new room, which was his home for the next fifteen months.

He was assigned to quarters on the second floor opposite the office of the commandant. After several prisoners invited him to room with them, he decided to go to No. 6 with a man named Shreve from Loudon County, Virginia. There were seven rooms in the section, and each opened up into one of two passages. William Bright of Wilmington, a member of the Methodist Church, was in No. 1. Dr. Handy suggested that Bright try to make arrangements for some sort of daily worship or a regular prayer meeting. Just before bedtime on his first night of captivity, Dr. Handy spoke to Mr. Bright again, who informed the reverend that a number of people wanted to have an evening service. Handy went to No. 7, the largest of the rooms, to discover 25 to 30 men assembled there. He read the 37th Psalm and everyone sang



The Rev. Isaac Handy, a political prisoner who used his fifteen months in prison to comfort and convert his fellow prisoners.

the hymn "When I can read my title clear." They then got down on their knees and gave thanks. After the service, Dr. Handy wrapped himself in a blanket and went to sleep on a board bed to end his first day in prison.

The next morning, he washed with brownish, filthy water, which was all he could get. He shared No. 6 with six other men: Captains Sol. R. Jackson and H.A. Ball, and Messrs. T. Jeff Shreve, John A. Atwood, James S. Pleasants, and Harrison Tibbets. The room was 12 by 18 feet with an alcove and a grated window. The window opened to the southwest and directly faced Delaware City. At the other end was a large opening, creating a draught directly through the building. On each side of the room were tiers of bunks. He could not see Delaware City because of a cluster of willow trees surrounding an ice-house, which was on an embankment near the fort. Looking down from his window, the new prisoner could see other prisoners doing various

jobs such as carrying boards, rolling barrels of flour, and pushing wheelbarrows. The prisoners got two meals a day, three if they worked. The Union army recruited soldiers from the prisoners and 100 men became Yankee soldiers during the time the Rev. Handy was held at the fort.

The prayer meeting held that night had even more prisoners than that of the previous evening. The 94th Psalm was read and they sang "A Charge to keep I have."¹⁶ Seeing the increased attendance in the worship service, the Rev. Handy realized that his calling while at Fort Delaware was to minister to the prisoners and keep them from straying from the straight and narrow while far away from home and family. He then threw himself into this work, in spite of his frail health, creating a religious library in his room and founding the Confederate States Christian Association for the Relief of Prisoners. This organization was created to help in the physical, spiritual, moral, and intellectual needs of the prisoners. He led many prisoners into the Christian faith with his daily prayer meetings. There were those prisoners who were put off by his long, gray hair, but by the time he was released in October 1864, he had gained the respect of everyone he came into contact with due to his deep faith, good works, and strong support of the Confederacy.¹⁷

The provost marshal, Col. Edwin Wilmer, was concerned with keeping the

peace, as well as disloyalty and secessionist activities. There were 52 people arrested between June 8, 1863, and January 1, 1864. Most of them were released after they took the oath. A few of them were sent to Fort Delaware. An Irishman in Smyrna, Del., was sent to Fort Delaware for stating that "his heart beat for the C.S.A. and he wished all the men that went down to fight for the U.S.A. would be killed and thrown into ditches." Another man from Smyrna was arrested for saying, "I wish all the Union men were in hell. While old Abe is in office, we are sure to go to Hell." A dentist from Smyrna was sent to Fort Delaware for bragging that he had personally sent 25 recruits to the Confederacy, drinking to the health of Jeff Davis, and saying that the Union was a "damned despotism."¹⁸

Colonel Waring of Maryland was arrested and court-marshaled on three charges, even though he was a private citizen. He was accused of having Confederate mail in his house, of harboring Rebels, and being a spy. Reverdy Johnson was his defense council, but he was found guilty and sentenced to be imprisoned at Fort Delaware until the end of the war. His daughter, Mrs. Elizabeth Waring Duckett, went to Washington to talk to President Lincoln to ask his permission to visit him in prison. Lincoln gave her a card to give to Secretary Stanton so she could see him about the possibility of visiting her father. As soon as she was ushered into Stanton's office, he tore up the card and threw it on the floor. He refused to allow her to go to Fort Delaware and she left the office in a frustrated and angry state. She eventually learned that she could not get permission to go to the fort, but she found out how to get there anyway. She got a pass to leave Baltimore and took a canal boat to Pea Patch Island at night. On the boat, she met some recaptured prisoners who told her that General Schoepf had given her father the parole of the island and that the only way she could get to the prison was on a milk-boat which left for the island at five A.M. She took the boat, but the guards would not allow her to land. The colonel heard about her arrival and went to General Schoepf to ask permission for her to visit. Schoepf agreed to the request and allowed her to stay for two days.

She then returned in the fall of 1863, bringing her daughter with her. They stayed at a lodging house on the island outside the fort and her father was allowed to visit her there. During the visit, Mrs. Duckett's daughter took off on her own to explore the island. She wandered into the smallpox hospital set up on the island, unaware of what the yellow flag meant that waved above it. Fortunately, one of the Confederate surgeons found her and brought her back to her mother before she became ill.

In early 1864, Archbishop Hughes of New York wrote to Lincoln asking for Colonel Waring's release. Lincoln also received a petition from the Court of Appeals and another from important citizens of Maryland asking for the colonel's freedom. All of this finally convinced the President to sign the order releasing Colonel Waring.¹⁹

The other major reason for the increase in the number of prisoners being held by both sides was the breakdown of the exchange cartel in 1863. The exchange cartel had its problems right from the beginning. Exchanges worked if the number of

prisoners being exchanged was limited, as it was during the first part of the war. However, as the war progressed and the number of prisoners increased, it became harder to keep track of how many prisoners needed to be exchanged, who was on parole, and how to make sure that both sides were playing by the rules. It was a time when men were expected to live by a code of honor, but it did not mean that there were not abuses of the system. One problem that occurred was that some soldiers would use the exchange system to take a break from soldiering. There were many cases of Union soldiers deliberately taking their time walking away after a battle so that they could be captured and held by Confederate forces until exchanged or paroled. Some even skipped being captured altogether and just forged a paper declaring that they were on parole and went home. The federal government, in the fall of 1862, decided to use this situation to its advantage and ordered that when the paroled soldiers were sent North to await their exchange, they would be sent to Minnesota to quell an Indian uprising. The soldiers, believing that going to fight Indians was a violation of their parole, refused to go on the grounds that they were being forced to break their word by engaging in military activities before their exchanges went into effect. The South also got wind of this situation and deliberately worded their paroles to prevent Union soldiers from fighting Indians. They hoped that Union troops would have to be pulled away from fighting the Confederacy to handle the situation. As it turned out, the uprising was put down before any paroled soldiers could be sent to Minnesota.²⁰

The idea of returning prisoners to their respective sides ground to a halt in 1863 with the advent of two situations. First, the Confederate Congress in May of that year authorized their armies to either enslave or execute captured African-American soldiers and their officers. This kind of blackmail had worked before for the South. It also threatened to hold Union officers hostage. Such threats, along with strong public opinion in the North for a formal exchange system, had finally convinced President Lincoln to create the exchange cartel in the first place. However, this time, the strategy did not work. The Federal War Department suspended the cartel so that Rebel prisoners could be held as hostages against threats like these.

The second situation was the abuse of the parole system. When the decision to halt the cartel, combined with the big battles that took place in the second part of 1863, made the prison population swell to enormous proportions, large scale paroles took place to alleviate the problem. However, the way the South handled the paroles sealed the fate of the entire system. General Grant had discovered that some of the soldiers he captured at Chattanooga in November 1863 had been part of the 30,000 Rebel soldiers he had paroled when he captured Vicksburg and the 7000 Rebels that General Nathaniel Banks had paroled at Port Hudson four months before. The South declared that most of these soldiers had been exchanged and thereby were allowed to return to combat. They claimed that there had been difficulties in the paperwork, which is why the North did not know that the exchanges had been completed.²¹ Whether or not the explanation was the truth was not important. What was impor-

tant was that Grant had had enough of exchanges. It was then that he recommended that the exchange cartel be disbanded. In a letter to General Benjamin Butler on April 17, 1864, Grant explained his position on exchanges and paroles.

1st.: Touching the validity of the paroles of the prisoners captured at Vicksburg and Port Hudson.

2nd.: The status of colored prisoners.

As to the first: No Arrangement for the exchange of prisoners will be acceded to that does not fully recognize the validity of these paroles, and provide for the release to us, of a sufficient number of prisoners now held by the Confederate Authorities to cancel any balance that may be in our favor by virtue of these paroles. Until there is released to us an equal number of officers and men as were captured and paroled at Vicksburg and Port Hudson, not another Confederate prisoner of war will be paroled or exchanged.

As to the second. No distinction whatever will be made in the exchange between white and colored prisoners; the only question being, were they, at the time of their capture, in the military service of the United States. If they were, the same terms as to treatment while prisoners and conditions of release and exchange must be exacted and had, in the case of colored soldiers as in the case of white soldiers.

Non-acquiescence by the Confederate Authorities in both or either of these propositions, will be regarded as a refusal on their part to agree to the further exchange of prisoners, and will be so treated by us.²²

Grant also let his feelings about prisoners of war be known to Secretary of State William Seward. On August 19, 1864, he wrote to Seward stating: "We ought not to make a single exchange nor release a prisoner on any pretext whatever until the war closes. We have got to fight until the Military power of the South is exhausted and if we release or exchange prisoners captured it simply becomes a War of extermination."²³

Extermination was not what Grant wanted, but living on "the Devil's Half-acre" at Pea Patch Island did not improve the life expectancy of anyone held there.