

# **The Trial of Major Henry Wirz: A National Disgrace**

by Captain Glen LaForce, as published in *The Army Lawyer*, Department of the Army Pamphlet 2750-186, June 1988. Wirz was the commandant of the Confederate prisoner of war camp at Andersonville, Georgia, who was convicted of "war crimes" by a federal military commission and executed on 10 November, 1865

Fortunes declined in the latter part of the war, the necessity arose to construct new prisons farther removed from the front lines. The War Department in Richmond turned to the deep south as the logical choice, and found a suitable area in south Georgia. Captains W.S. Winder and Boyce Charwick selected the site for Andersonville prison in November 1863. The orders regarding the prison site selection called for, among other things, "a healthy locality, plenty of pure, good water, a running stream."

The choice of Andersonville was a natural one. The small community had been far removed from the fighting and offered a "salubrious climate." The Georgia Southwestern Railway served the location, and the area offered an abundance of pine timber for the construction of the stockade. A clear and strong flowing stream, Sweetwater Creek, flowed through the site, and sufficient labor to erect the stockade could be made available by the impressment of slaves in the surrounding area.

Construction began on the prison in December of 1863 and was still ongoing when the first load of prisoners, six hundred men from Libby Prison in Richmond, arrived on February 24, 1864. One of the walls of the stockade had not yet been completed, and a twenty four hour Confederate guard kept artillery pieces trained at the opening until the work was through.

The prison was built to accommodate ten thousand prisoners. Initially, the number of prisoners was small and conditions inside the prison were satisfactory. Things began to change rapidly, however. As the Confederacy's hopes dimmed in Virginia, thousands of prisoners were shipped to Andersonville. In addition, as the demands of Andersonville increased to provide for the prisoners' needs, the ability of the Confederates to obtain the necessary provisions was being eroded. When Captain Wirz reported for duty at Andersonville on April 12, 1864, General Lee's Army was being pressed hard in Virginia, the men often reduced to one quarter rations; General William "War is Hell" Sherman was closing in on General Joseph Johnston's greatly outnumbered Army, and the fall of Atlanta was less than five months away; and, finally, the only regular soldiers assigned to guard duty at Andersonville would be shipped out in less than one month to front-line duty, leaving Wirz with nothing but a small force of untrained and undisciplined Georgia Home Reserves to guard the prison.

## **Prison Life**

Living conditions in the Andersonville Prison were undeniably bad. As the number of prisoners steadily increased, the conditions went from bad to worse. From the initial six hundred men in February, the prison population increased to two thousand in ten days. By the end of March there were twelve thousand. On May 15th the prison rolls listed nineteen thousand. By June 8th, the number of prisoners exceeded twenty-three thousand, and over one hundred a day were dying. The population reached its peak in August, when over thirty-three thousand soldiers were crowded into the Andersonville prison pen.

By the end of September, most of the prisoners were transferred to other prisons and the stockade's population never exceeded four thousand again. The problems affecting the prisoners' lives were legion. As the number of prisoners grew, the available living space for each man shrank, until the amount of space for each soldier was less than six square feet. The original interior of the stockade was sixteen and one half acres, In June, 1864, Captain Wirz supervised the enlargement of the stockade by ten acres, but the relief was only

temporary. The overcrowded condition affected every aspect of the prisoners' daily lives. The latrines were overtaxed, and human waste with its attendant complications of maggots and flies saturated one end of the stockade. The stream, which had been an ample water supply for ten thousand, soon became a sluggish swamp, no longer strong enough to carry away all of the waste from the latrine area. The primary water supply was polluted, adding to the spread of disease. Soldiers dug a number of these.

At exactly 10:32 a.m. the trap was sprung. The fall did not break his neck as the hangman's knot was intended to do and Henry Wirz's legs kicked and writhed within their bonds as he slowly strangled to death. The yard of the Old Capitol Prison was crowded with onlookers who gladly braved the slight chill of the November morning to watch Wirz go to his death. The 250 spectator tickets the government had issued were quickly snatched up; others watched the event from perches on nearby rooftops and in times overlooking the walls. Four companies of United States soldiers stood guard and, as he was led up the scaffold, they began chanting in unison, "Wirz-remember Andersonville." When the major commanding the execution detail told Wirz, "I have my orders," just before he put the black hood over Wirz's head, Major Wirz spoke his last words, "I know what orders are Major, and I am being hanged for obeying them."

The mood of the crowd as they wandered away from the scene of the execution was one of satisfaction. For sixty-three days the trial of Confederate Major Henry Wirz had been front page news. The horrors of Andersonville were recounted in story after story. "Harpers Weekly" obtained photographs of some of the worst victims of the prison taken just after their release and published them on its front page. The Union was outraged-The public clamor for revenge had grown daily and the target of the public's vengeance was the conunander of the Andersonville prison,that"fiend incarate,"Henry Wirz.Walt Whitman wrote of Andersonville, "Tbere are deeds, crimes that may be forgiven but this is not among them. It steeps its perpetrators in blackest, escapeless, endless danmation." With the execution of that "devil" Wirz, the nation's thirst for vengeance had been satisfied. justice had finally been done - or had it?

## Background

Heinrich Hartmann Wirz was born on November 25, 1823 in Zurich, Switzerland. He was educated in Zurich, Turin, Italy, and Paris, studying first the mercantile field and later medicine. He immigrated to the United States in 1849 and settled first in Cadiz, Kentucky, where he began the practice of medicine. He married a widow there in 1854, adopting her two young daughters. From that union one more daughter was born and Wirz moved with his wife and three daughters to Louisiana several years later.

When the war broke out in 1861, Wirz gave up his medical practice to enlist in Company A, Fourth Battalion, Louisiana Volunteers. He was given a battlefield conuission for bravery in the battle of Seven Pines near Richmond, Virginia, in the spring of 1862, but he was also badly wounded. A rifle ball shattered his right arm: he never regained the full use of it. After being treated and released by the military hospital in Richmond, Wirz, now a Captain, was assigned to duty at Libby Prison in Richmond working for General John H. Winder, Superintendent of Confederate Military Prisons. General Winder sent Wirz to inspect Confederate prisons in July of 1862 and then to command the Confederate prison at Tuscaloosa, Alabama.

Because of his nationality and education (he could speak three languages fluently), Captain Wirz was summoned to Richmond in the summer of 1863 and sent on a secret mission. President Jefferson Davis made Captain Wirz a Special Minister plenipotentiary and sent him to Europe to carry secret dispatches to the Confederate Commissioners, Mister Mason in England and Mister Slidell in France.

Captain Wirz returned from Europe in January of 1864 and reported back to Richmond, where he again worked for General Winder in the prison department. Three months later, on April 12, 1864 Captain Wirz received his ill-fated orders to report to Andersonville, Georgia, to command the n-dlitary prison there.

## Andersonville

As the Confederacy's military swells inside the prison, but there were never enough to supply all of the drinking water needs of the entire population.

Lack of shelter was another pressing problem. There were no barracks, and the supply of tents issued as shelter to the first prisoners was quickly exhausted. The few shade trees existing in the prison compound disappeared as the men cut them down to use the lumber for the erection of huts. Clothing and blankets were also in short supply. Many articles of clothing had been used by the prisoners to sew together patchwork tents called 'she-bangs' to provide some measure of protection. Some soldiers dug underground shelters which turned into mud holes when it rained. Prolonged exposure to the elements took its toll on the men's health, especially when added to the other privations.

Perhaps the largest single problem the prisoners faced was their diet. Certainly some food items were scarce in Georgia in the summer of 1864 because of the military situation. Much to the credit of the Confederate quartermasters, however, the prisoners never went without rations. The prisoners were issued the same daily ration as the Confederate guards. It was meager one. It usually consisted of approximately two ounces of beef or pork, a small loaf of bread, some amount of soup or rice, and condiments such as syrup, salt, or sugar, as available. Vegetables were available only infrequently and consisted primarily of potatoes, yams, beets, and peas. It was not the quantity as much as the type of food that seems to have caused most of the problems. Scurvy became quite common due to the lack of fruits and vegetables. Also, the Northern soldiers were not used to eating cornbread. The coarse cornmeal-based bread was hard on their digestive systems. Wheat was not a southern crop, however, and the wheat-based bread that the Union soldiers were used to was not available. This foreign diet caused massive dysentery and diarrhea. In fact, dysentery was the leading cause of death.

Conditions at the prison hospital were not much better. Located outside of the stockade walls, the hospital was also short of shelter, bedding, blankets, and everything else. About thirty Confederate surgeons, aided by paroled prisoners working as orderlies, labored around the clock to care for the thousands of sick and dying men. Medicine had been declared a contraband of war by the United States and was in very short supply. Doctors tried to improvise by prescribing medicines made from local herbs, roots, and bark, but met with little success.

The prisoners themselves posed a very real problem to each other. Not surprisingly, in a group of over twenty thousand men, there were more than a few unsavory characters. Gangs of marauding robbers and thieves terrorized other prisoners. A number of reports exist of prisoners being murdered in their sleep for a blanket, pocketwatch, or other small items of value. One gang in particular, known as the "Raiders," became very powerful. In an attempt to fight back, some decent, law-abiding prisoners went to see Captain Wirz to solicit his help in the matter. How Wirz handled the problem will be discussed later.

After most of the prisoners were shipped to other prisons in September, 1864, conditions at Andersonville improved somewhat. In addition to more living space, barracks were constructed and physical improvements were made to the hospital. A tannery and a shoe shop were completed, providing much needed shoes for many of the men. Work was also done on the stream to improve drainage.

With the surrender of General Johnston to General Sherman in North Carolina on April 20, 1865, the war came to an end. Confederate forces in Georgia were included in the terms of General Johnston's surrender.

As soon as the news reached Andersonville, the prison closed. The few remaining prisoners were sent by rail to Macon, where Union General Wilson had established his headquarters. During the fourteen months that the prison operated, a total of 45,613 men were imprisoned there. Of that number, 12,912 died.

## The Arrest

Wirz, promoted to major just prior to the war's end, remained in Andersonville with his family. Uncertain as to his future plans, he was considering a return to Europe, since the South had been devastated by the war.

On May 7th, Wirz wrote a letter to General Wilson in Macon requesting his assistance. Wirz was concerned that some of the recently released prisoners would hold him responsible for their poor condition and try to harm him in some way. He wrote General Wilson that the shortcomings of the prison were beyond his control, and that he was merely a soldier who had done his duty to the best of his ability. He asked for a safe conduct pass or a guard to temporarily protect him.

Upon receipt of the letter, General Wilson sent his aide-de-camp Captain Henry Noyes, with several soldiers to Andersonville to arrest Wirz. Captain Noyes testified at Wirz's trial that he told Wirz that Wirz needed to accompany him to Macon for routine questioning. Noyes admitted that he told Wirz in the presence of his family that there was nothing to fear, and that after answering some routine questions he would be released. Wirz gathered his official records, which he had saved, to take with him. Since the dinner hour was approaching, Wirz invited Captain Noyes to have dinner with his family before leaving. Noyes accepted and dined with the Wirz family before leaving for Macon. Wirz apologized for the meager fare served and explained the food shortage problem. Little did Henry Wirz realize when he left his house after dinner that evening that he would never see his family again.

It seems clear that Wirz did not perceive the threat of criminal prosecution by the north. He had ample time and opportunity to leave the area and go into hiding, or possibly flee to another country as some ex-Confederates did. He remained in Andersonville for weeks after the surrender with no Federal soldiers present at all. Rather than destroying the prison records, which he had the opportunity to do, he carefully preserved them and voluntarily submitted them to the Federal authorities when Captain Noyes came for him. Even his arrest is directly attributable to his own letter for assistance, which notified the Union General Wilson of his whereabouts and rendered him of the situation. It seems very likely that if Wirz had kept silent, it would have been at least much later before any attempt to arrest him would have been made.

## The Trial

From Macon, Wirz was shipped to the Capitol Prison in Washington where he remained throughout his trial. He was tried by a military commission, not a court-martial, composed of nine officers headed by Major General Lew Wallace. The judge advocate who prosecuted the case was Colonel Norton Parker Chipman. Wirz initially had five defense attorneys: Messieurs Hugh, Denver, Peck, Baker and Schade. The trial began on August 23, 1865, and ran until October 24th. A total of 160 witnesses testified; the record of trial is 2,301 pages long.

From the beginning of the trial, Wirz defense attorneys feared the worst. Lincoln's assassination had thrust the Radical element of the Republican party into control of the government. Secretary of War Stanton assumed tremendous power during the early tenure of President Johnson, which he wielded with a vengeance against the conquered Rebels.

Stanton was determined to link Confederate President Jefferson Davis to Lincoln's assassination. A Bureau of Military Justice was formed, headed by The Judge Advocate General of the Army, Joseph Holt, which sought evidence implicating President Davis. The Bureau located witnesses who testified that President Davis was involved in the conspiracy to kill Lincoln. Secretary Stanton offered a \$100,000 reward for Davis's capture. Davis was captured and imprisoned at Fort Monroe, Virginia.

A military commission tried the Lincoln conspirators, minus Jefferson Davis, from May to July, 1865. Eight defendants were convicted of conspiring with Jefferson Davis and other Confederate government leaders to murder Lincoln and other Northern leaders. Four of the eight were hanged.

Despite the military commission's verdicts, Stanton realized that the evidence implicating Davis would not sustain a conviction. The government's witnesses against Davis were two manual laborers and a tavern keeper from New York whose testimony was so obviously false that Stanton refused to risk a trial.

Frustrated in their attempts to link Davis to the Lincoln assassination, the leaders of the Radical Republicans saw Andersonville as the next target of opportunity. The same Bureau of Military Justice investigated the case against Wirz, and it came as no surprise to Wirz's attorneys that the first of the two charges Wirz stood accused of was conspiracy to destroy prisoners' lives in violation of the laws and customs of war. The named co conspirators included Jefferson Davis, Robert E. Lee, Confederate Secretary of War James Seddon, and a number of others. When the verdict was returned, General Lee's name was dropped-probably because of the universal admiration his name inspired.

Jefferson Davis, however, along with fourteen other named conspirators, was included in the finding of guilty. That no other named conspirator was ever brought to trial says much about the quality of the government's evidence of a conspiracy.

The second charge against Wirz was murder in violation of the laws and customs of war. Contained in this charge were thirteen specifications alleging deaths caused by Wirz or guards acting on his orders. Before the taking of testimony began, the defense made several motions to dismiss. The first motion was that the commission had no right to try Wirz because he had been included in the terms of the military surrender between Generals Sherman and Johnston. That surrender provided that once each soldier agreed in writing not to take up arms against the United States he would be permitted to return to his home, "not to be disturbed by the United States authorities so long as they observe their obligation and the laws in force where they may reside." Because Wirz had complied with his obligation under the surrender, his subsequent arrest and trial was illegal, argued defense, as the effect of the surrender was to pardon the wartime acts of the accused.

Colonel Chipman argued to the commission that the surrender terms never intended to pardon soldiers who committed war crimes. Because Wirz was charged with law of war violations, the surrender afforded him no protection. The commission quite correctly denied the motion.

The second defense motion was that the military commission had no personal or subject matter jurisdiction to try the case. Personal jurisdiction was lacking because Wirz was a naturalized citizen of the United States who had never served in the United States military. Subject matter jurisdiction was lacking because the war was over and Wirz was constitutionally entitled to a civil trial with a jury of his peers.

Although it is now well established that a military commission has the authority to try war crimes after the cessation of hostilities, such was not the case in 1865. Colonel Chipman appears to have been most concerned with this point; he devoted considerable argument to defending the jurisdiction of the commission. The thrust of Chipman's argument was that a military tribunal was justified because, even though the war was over, the South was still a rebellious, armed camp, and the threat of war was very real. Obviously Chipman prevailed, but it seems that a better argument would have been that the offenses were military in nature, war crimes, and therefore a military tribunal was better suited to handle the case. The Constitution certainly provides for military courts when the offenses involve military personnel. International law recognizes that military commissions have the jurisdiction to try war criminals largely because of the precedent set by the Wirz case.

The last defense motion to dismiss was also the most meritorious. Defense argued that the charges should be dismissed because they were unconstitutionally vague and indefinite. Incredibly, despite thirteen specific allegations of murder, not a single murder victim was named in the charges! Every specification alleged the murder of a United States soldier, "whose name is unknown." This, even though the murders were supposed to have occurred in the immediate presence of thousands of eyewitnesses who were fellow comrades of the slain soldiers. Moreover, the Confederate authorities had carefully recorded the name of every soldier who died at Andersonville. Chipman did not respond to this motion, and it was denied without comment.

At the conclusion of the defense motions, three of the five counsel for the defense withdrew from the case. Convinced that the conclusion was pre-ordained, attorneys Hugh, Denver, and Peck departed, leaving attorneys Baker and Schade to "battle it out" with the commission. Battle is an appropriate word to describe the acrimonious exchanges that characterized the relations between the defense attorneys and the commission and the judge advocate. At one point, Baker and Schade quite after complaining bitterly of the deferential treatment shown prosecution witnesses, and the intimidation of defense witnesses by the commission. Only the pleading of Henry Wirz persuaded them to return. At the conclusion of the trial, when the defense request for time to prepare its closing argument was denied, both attorneys had had enough and quit the case for good. The closing argument for defense as well as the prosecution ended up being handled by the same man, Colonel Chipman.

The prosecution had a very simple strategy. Chipman created a "parade of horrors" as he called one witness after another to testify to the terrible conditions at Andersonville. All of the disease, malnutrition, filth, overcrowding, misery, and death was described in graphic detail. The judge advocate's message seemed to be, "Andersonville was horrible, therefore Wirz was horrible."

To establish the conspiracy, Chipman introduced letters from Wirz to the Department of Prisons in Richmond and inspection reports that Confederate inspectors general and surgeons had sent to the Confederate War Department. The letters and reports detailed the problems existing at Andersonville and made recommendations for improving the situation. Chipman's point was to show knowledge on the part of the Confederate government officials of the terrible condition of Andersonville, and therefore complicity. What is remarkable about the documentary evidence introduced by Chipman on this point is what it proves for the defense. It shows that the Confederate government, despite all of its problems late in the war, continued to regulate and inspect its prisons with a view to improving their condition to the best of its ability. Of the inspection reports admitted, none were critical of Wirz, and several reports praised Wirz by name for his efforts. On May 5, 1864, Major General Howell Cobb wrote, "The duties of the inside command are admirably performed by Captain Wirz, whose place it would be difficult to fill." On May 8, 1864 General Winder wrote, 'Captain Wirz has proved himself to be a very diligent and efficient officer, whose superior in commanding prisoners and incident duties I know not.' Again on August 5, 1864, Colonel D.T. Chandler wrote, 'Captain Henry Wirz, in immediate command of the prison, is entitled to commendation for his untiring energy and devotion to the discharge of the multifarious duties of his position, for which he is pre-eminently qualified.' Wirz's own letters to Richmond are all composed of reports of the condition of the prison followed by pleas for more food, tents, clothing medicine, and supplies of all kinds - hardly the stuff that a man would write who was intentionally destroying the lives of his prisoners.

Out of the 160 witnesses called, 145 testified that they had no knowledge of Wirz ever killing anyone or treating a prisoner badly. Only one witness could give the name of a prisoner Wirz allegedly killed, and the date of the alleged murder was in September. Since no specification agreed with that date, the commission changed a specification from June 13th to September to match the testimony.

The star prosecution witness was a man named Felix de la Baume. De la Baume claimed to be a Frenchman and a grand nephew of Lafayette. He testified at great length about his captivity at Andersonville and the cruelties he personally saw Wirz inflict on prisoners, including shooting two men with his revolver. De la Baume was apparently quite an orator. He so impressed the commission with his testimony that he was

given a written commendation for his "zealous testimony" signed by all the commission members. He was also rewarded with a government clerk's job in the Department of the Interior. This all occurred before the trial of Wirz was completed! In his closing argument, Chipman stressed the compelling nature of De la Baume's testimony. Just eleven days after Wirz was hanged, De la Baume was spotted in Washington by veterans of the 7th New York Regiment as a deserter from their regiment whose real name was Felix Oeser. The veterans were so outraged that they went to the Secretary of the Interior and had Oeser fired. Upon his discovery, Oeser admitted his true identity and that he had committed perjury in the Wirz trial.

It is not surprising that soldiers could be found who would commit perjury to testify in the Wirz trial. The trial was held in the United States Capitol Building and was front page news every day. Prosecution witnesses were instant celebrities and could also hope for some other reward for their efforts. Defense witnesses, on the other hand, were vilified and intimidated and testified for Wirz at their own peril.

One of the most disturbing aspects of the trial was the role the judge advocate played regarding the defense witnesses. Procedurally, defense counsel were required to submit the names of the witnesses they desired to the judge advocate. The judge advocate would then issue subpoenas to procure the witnesses' attendance. Chipman required all witnesses to report to him first for questioning. After his interrogation, Chipman told a number of defense witnesses to leave, because their testimony would not be necessary or allowed. When the defense counsel complained to the commission that requested defense witnesses were being turned away, Chipman admitted that he considered it a matter within his discretion whether to subpoena a witness, and if subpoenaed, whether to allow them to testify. Incredibly, the commission upheld Chipman's actions without comment.

General John D. Imboden wrote in the Southern Historical Society Papers in 1876 that he had inspected Andersonville prison in 1865 and found Captain Wirz doing everything he could for the prisoners, including building log barracks, a tannery, and a shoe shop. He wrote, "I would have proved these facts if I had been permitted to testify on his trial, after I was summoned before the court by the United States."

Major General Howell Cobb was subpoenaed as a witness but received a subsequent telegram from Chipman instructing him not to come. Confederate Commissioner of Exchange Robert Ould was also subpoenaed. When he reported to Chipman, he was told to surrender his subpoena. He refused, stating that the subpoena was his protection in Washington. Chipman took the subpoena from him and wrote on it, "the within subpoena is hereby revoked; the person named is discharged from further attendance."

One Union soldier who had been a prisoner at Andersonville and wanted to testify to Wirz's kind treatment of the prisoners was notified by the defense that he would be called as a witness, but he was never subpoenaed to appear. That soldier was James M. Page of Illinois, who said that he was 'sorely disappointed' that he did not have the opportunity to tell the truth about Major Wirz. He later wrote a book entitled 'The True Story of Andersonville' in which he termed the trial of Wirz, "the greatest judicial farce enacted since Oliver Cromwell instituted the commission to try and condemn Charles I.

At least one subpoenaed defense witness was arrested and jailed after he showed up to testify. When a former prisoner named Duncan arrived to testify in Wirz's behalf, a government witness told Chipman that Duncan had mistreated prisoners while serving as a parolee working in the stockade kitchen. On that basis the man was arrested, charged, and put in prison. Defense counsel's protests and request to have the witness testify were to no avail.

One defense strategy for responding to the charge of conspiracy to destroy prisoners' lives was to prove that Wirz and the Confederate government did everything possible to exchange prisoners with the North. In 1863, Secretary of War Stanton decided to end prisoner exchanges on the grounds that the South had more to gain from them than the North. No amount of Confederate entreaties could persuade Stanton to change his mind, even though the Confederacy explained its increasing inability to care for its prisoners. In July 1864,

Wirz allowed a committee of four Andersonville prisoners to visit Washington on parole to explain the hardships at Andersonville and plead for an exchange. The men saw Stanton, were unsuccessful, and honored their paroles by returning to Andersonville. Virtually all accounts of prison life by Union soldiers written after the war condemn Stanton for his refusal to allow prisoner exchanges. Several writers have suggested that Stanton was anxious to have Wirz tried for war crimes to deflect the storm of criticism his policy received from returning veterans.

When it became clear that the North would not exchange prisoners, the South offered to release its most seriously ill captives without exchange if the North would only send transport to the Georgia coast to receive them. In November, 1864, the South released thirteen thousand prisoners to the United States at the mouth of the Savannah River with no prisoners received in exchange. The majority of the released men came from Andersonville. In February 1865, Wirz sent three thousand prisoners, virtually all of whom were well enough to make the trip, to Jacksonville, Florida, to be released to the Federal commander there. Upon their arrival, the Union commander, General E. P. Scammon, refused to accept them, and they had to return to Andersonville. Despite the obviously exculpatory nature of such evidence, the commission refused to allow any evidence from defense on the subject of exchange or release of prisoners on the ground that it was irrelevant.

Confederate Commissioner Ould was prepared to testify that the Confederacy tried to purchase medicine from the United States government and offered to pay United States currency, gold, tobacco, or cotton. The Confederacy even promised to use the medicine solely to treat Union prisoners, but the North refused. This evidence, too, was deemed irrelevant. The defense was prepared to prove that conditions at Andersonville, bad as they were, were similar to conditions at most prisoner of war camps. The United States War Department's own statistics showed that more Southern soldiers died in Northern prisons, 26,436, than did Northern soldiers in Southern prisons, 22,576. This was true even though the South held approximately fifty thousand more prisoners, making the death rate in Northern prisons about twelve per cent, while the rate in Southern prisons was less than nine percent. Again, the evidence was kept out as irrelevant. The commission did, however allow the defense to prove that the Confederate guards at Andersonville received the same quality and quantity of rations as the prisoners, and that the death rate of the guards was approximately the same as the prisoners.

Despite the adversity the defense faced, 68 or the 106 witnesses requested did appear and testify for Wirz. The defense testimony described Wirz as a kind-hearted man, anguished by the terrible conditions in the prison, who did all that he could to alleviate the prisoners' suffering. What follows is a representative sampling.

George Fletcher testified that Wirz was very helpful in ridding the prison of the "Raiders." Wirz allowed the law-abiding prisoners to hold court-martial for the gang members, and he provided an armed guard. Six "Raiders" were hanged and many others received lesser punishments. Frederick Guscetti testified that, when Wirz caught him trying to escape, he took him to the hospital to be clothed and fed and did not punish him. Augustus Moesner testified that he worked as a parolee clerk in Wirz's office. Wirz treated him well and ensured that the prisoners always received their mail and care packages from home. Mary Dawson testified that she visited a prisoner at Andersonville on a number of occasions. Wirz was always very kind to her and always allowed her to take whatever provisions she wanted to the prisoner. Reverend Peter Whelan testified that he was a Catholic priest who worked with the prisoners daily from June to October 1864. Wirz was always most helpful. He seemed to be genuinely interested in the prisoners' welfare. Reverend Whelan never heard of any murder or cruelty by Wirz; if it had occurred he said he would have heard about it because he was among the prisoners every day.

Notwithstanding the defense testimony, the verdict announced on October 24th came as no surprise. Wirz was found guilty of both charges and sentenced to be hanged. The post trial review was conducted by the same Judge Advocate General Holt who headed the Bureau of Military Justice that had gathered evidence against Wirz. Holt's objectivity can be seen in the language of his review. He wrote that Wirz was a "demon" whose work of death caused him "savage orgies" of enjoyment. He closed by saying that Wirz represented the

spirit of the rebellion in all his "murderous cruelty and baseness." "It is by looking upon ... Andersonville ..that eye can best understand the inner and real life of the rebellion, and the hellish criminality and brutality of the traitors who maintained it.

## A Pardon Scorned

Two nights before he has hanged, three men visited Wirz in his cell at the Capitol Prison. The men told Wirz that they were agents of a powerful member of Congress, and that if he would be willing to testify that Jefferson Davis was responsible for the deaths of the prisoners at Andersonville, Wirz would be pardoned and set free. When Wirz indignantly refused their offer to purchase his liberty with perjury, the same men communicated the offer to both Wirz's defense attorney, Mister Lewis Schade, and Wirz's attending priest, Reverent F.E. Boyle.

## Conclusion

On November 10, 1865, the sentence was carried out. The request of Wirz's family for his body was denied, and he was buried in the prison yard beside the Lincoln conspirators. Convinced of his client's innocence, Louis Schade wrote an "open letter to the American public" on April 4, 1867, in which he attempted to explain how Wirz had been unfairly convicted.

In the years after the war, many books and articles were written about Andersonville and the trial of Wirz. In 1908, the United Daughters of the Confederacy erected a monument to Wirz in the town of Andersonville, where a memorial service for Wirz is still held annually. In 1977, the Sons of Confederate Veterans named Wirz the "martyr of the Confederacy" at their national convention, and in 1981 that same organization awarded Wirz their Confederate Medal of Honor.

That Wirz was a scapegoat, tried in order to incriminate the Confederate leaders and to deflect criticism from Secretary of War Stanton, seems obvious. That Wirz was unjustly convicted is also clear to the student of Andersonville and the Wirz trial. As one author aptly wrote, "the nature of the food, the number of the inmates, and the lack of comforts were as totally beyond his control as was the heat of the southern sun."

In the state archives in Richmond, Virginia, there is a letter written by an ex-Andersonville prisoner in 1919 which states, "I have alienated the friendship of many old comrades and friends by telling the truth as I saw it about Major Wirz and his innocence, but I am content and still firm in my belief that history will correct itself, prejudice illuminated, and the truth recognized." I hope that this article will, in some small way, help the truth to be recognized. The trial Henry Wirz was worse than a mistake, worse even than a miscarriage of justice. The trial of Major Henry Wirz was a national disgrace.

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