

CHAPTER II.

THE BUREAU OF MILITARY (IN)JUSTICE.

Mingling with the varied emotions evoked by the capture and death of the chief criminal was a feeling of deepest exasperation that the foul assassin should after all have eluded the ignominious penalty of his crime. Thence arose a savage disposition on the part of the governing powers to wreak this baffled vengeance first, on his inanimate body; secondly, on the lives of his associates held so securely in such close custody; and thirdly, on all those in high places who might be presumed to sympathize with his deeds. It was too horrible to imagine that the ghost of the martyred Lincoln should walk unavenged. So stupendous a calamity must of necessity be the outcome of as stupendous a conspiracy, and must in the very justice of things be followed by as stupendous a retribution. A sacrifice must be offered and the victims must be forthcoming. To employ the parallel subsequently drawn by General Ewing on the trial of the conspirators: On the funeral pyre of Patroclus must be immolated the twelve Trojan captives. They were sure of Payne and of Herold. They held Arnold and O'Laughlin and Atzerodt and Spangler and Doctor Mudd--all the supposed satellites of Booth, save one. John H. Surratt could not be found. Officers in company with Weichman and Holahan, boarders at his mother's house, who in the terror of the moment had given themselves up on the morning of the fifteenth, traced him to Canada, as has already been noticed, but had there lost track of him. They had returned disappointed;

and now Weichman and Holahan were in solitary confinement. Notwithstanding the large rewards out for his capture, as to him alone the all-powerful government seemed to be baffled. One consolation there was, however--if they could not find the son, they held the mother as a hostage for him, and they clung to the cruel expectation that by putting her to the torture of a trial and a sentence, they might force the son from his hiding place.

In the meanwhile the Bureau of Military Justice, presided over by Judge-Advocate-General Holt, had been unceasingly at work. General Baker with his posse of soldiers and detectives scoured the country far and wide for suspected persons and witnesses, hauled them to Washington and shut them up in the prisons. Then the Bureau of Military Justice took them in hand, and, when necessary, by promises, hopes of reward and threats of punishment, squeezed out of them the testimony they wanted. Colonel Henry L. Burnett, who had become an expert in such proceedings from having recently conducted the trial of Milligan before a military tribunal at Indianapolis, was brought on to help Judge Holt in the great and good work. In the words of General Ewing in his plea for Dr. Mudd:

"The very frenzy of madness ruled the hour. Reason was swallowed up in patriotic passion, and a feverish and intense excitement prevailed most unfavorable to a calm, correct hearing and faithful repetition of what was said, especially by the suspected. Again, and again, and again the accused was catechised by detectives, each of whom was vieing with the other as to which should make the most important discoveries, and each making the examination with a preconceived opinion of guilt, and with an eager desire, if not determination, to

find in what might be said the proofs of guilt. Again, the witnesses testified under the strong stimulus of a promised reward for information leading to arrest and followed by convictions."

The Bureau conducted the investigation on the preconceived theory, adopted, as we have seen, by the Secretary of War, that the Confederate Government was the source of the conspiracy; and, by lavishing promises and rewards, it had no difficulty in finding witnesses who professed themselves to have been spies on the rebel agents in Canada and who were ready to implicate them and through them the President of the defunct Confederacy in the assassination. Richard Montgomery and Sanford Conover, who had been in personal communication with these agents during the past year, were eagerly taken into the employ of the Bureau, and made frequent trips to Canada, to return every time laden with fresh proofs of the complicity of the rebels.

To illustrate how the Bureau of Military Justice dealt with witnesses who happened to have been connected more or less closely with Booth, and who were either reluctant or unable to make satisfactory disclosures, here are two extracts from the evidence given on the trial of John H. Surratt in 1867.

The first is from the testimony of Lloyd, the besotted keeper of the Surratt tavern:

"I was first examined at Bryantown by Colonel Wells. I was next examined by two different persons at the Carroll prison. I did not

know either of their names. One was a military officer. I think some of the prisoners described him as Colonel Foster. I saw a man at the conspiracy trial as one of the Judges who looked very much like him. *

* * I told him I had made a fuller statement to Colonel Wells than I could possibly do to him under the circumstances, while things were fresh in my memory. His reply was that it was not full enough, and then commenced questioning me whether I had ever heard any person say that something wonderful or something terrible was going to take place. I told him I had never heard anyone say so. Said he I have seen it in the newspapers.

"He jumps up very quick off his seat, as if very mad, and asked me if I knew what I was guilty of. I told him, under the circumstances I did not. He said you are guilty as an accessory to a crime the punishment of which is death. With that I went up stairs to my room."

The next is from the testimony of Lewis J. Carland, to whom Weichman confessed his remorse after the execution of Mrs. Surratt:

"He [Weichman] said it would have been very different with Mrs. Surratt if he had been let alone; that a statement had been prepared for him, that it was written out for him, and that he was threatened with prosecution as one of the conspirators if he did not swear to it. He said that a detective had been put into Carroll prison with him, and that this man had written out a statement which he said he had made in his sleep, and that he had to swear to that statement."

Let us add another; it is so short and yet so suggestive. It is from the testimony of James J. Gifford, who was a witness for the prosecution on both trials.

"Q.--Do you know Mr. Weichman?

"A.--I have seen him.

"Q.--Were you in Carroll prison with him?

"A.--Yes, sir.

"Q.--Did he say in your presence that an officer of the government had told him that unless he testified to more than he had already stated they would hang him too?

"A.--I heard the officer tell him so."

After a fortnight of such wholesale processes of arrest, imprisonment, inquisition, reward and intimidation, the Bureau of Military Justice announced itself ready to prove the charges it had formulated. Thereupon two proclamations were issued by President Johnson. One, dated May the first, after stating that the Attorney General had given his opinion "that all persons implicated in the murder of the late President, Abraham Lincoln, and the attempted assassination of the Hon. William H. Seward, Secretary of State, and in an alleged conspiracy to assassinate other officers of the Federal Government at Washington City, and their aiders

and abettors, are subject to the jurisdiction of and legally triable before a Military Commission," ordered 1st, "that the Assistant Adjutant-General (W. A. Nichols) detail nine competent military officers to serve as a Commission for the trial of said parties, and that the Judge-Advocate-General proceed to prefer charges against said parties for their alleged offences, and bring them to trial before said Military Commission." 2d, "that Brevet Major-General Hartranft be assigned to duty as Special Provost-Marshal-General for the purpose of said trial and attendance upon said Commission, and the execution of its mandates."

The other proclamation, dated May 2nd, after reciting that "it appears from evidence in the Bureau of Military Justice, that the atrocious murder of the late President, Abraham Lincoln, and the attempted assassination of the Hon. William H. Seward, Secretary of State, were incited, concerted, and procured by and between Jefferson Davis, late of Richmond, Va., and Jacob Thompson, Clement C. Clay, Beverly Tucker, George N. Sanders, William C. Cleary, and other rebels and traitors against the Government of the United States, harbored in Canada," offered the following rewards:

"\$100,000 for the arrest of Jefferson Davis.

"\$25,000 for the arrest of Clement C. Clay.

"\$25,000 for the arrest of Jacob Thompson, late of Mississippi.

"\$25,000 for the arrest of Geo. N. Saunders.

"\$25,000 for the arrest of Beverly Tucker.

"\$10,000 for the arrest of Wm. C. Cleary, late clerk of Clement C. Clay.

"The Provost-Marshal-General of the United States is directed to cause a description of said persons, with notice of the above rewards, to be published."

At this date the President of the defunct Confederacy was a fugitive, without an army; and bands of U. S. Cavalry were already on the scout to intercept his flight. Military Justice, however, was too impatient to await the arrest of the prime object of its sword; and in obedience to the first proclamation proceeded without delay to organize a court to try the prisoners selected from the multitude undergoing confinement as the fittest victims to appease the shade of the murdered President. Over some of the "suspect" the Judge-Advocates for a time vacillated, whether to include them in the indictment or to use them as witnesses; but, after a season of rigid examinations, renewed and revised, they at last concluded that such persons would be more available in the latter capacity.

On the third day of May the funeral car, which, leaving Washington on the twenty-first of April, had borne the body of the lamented Lincoln through State after State, arrived at last at Springfield; and on the following day the cherished remains were there consigned to the tomb. On the sixth, by special order of the Adjutant-General, a Military Commission was appointed to meet at Washington on Monday, the eighth day of May, or as

soon thereafter as practicable, "for the trial of David E. Herold, George A. Atzerodt, Lewis Payne, Michael O'Laughlin, Edward Spangler, Samuel Arnold, Mary E. Surratt, Samuel A. Mudd and such other prisoners as may be brought before it, implicated in the murder of the late President and in the attempted assassination of the Secretary of State and in an alleged conspiracy to assassinate other officers of the Federal Government at Washington City, and their aiders and abettors. By order of the President of the United States." And so, all things being in readiness, let the curtain rise.