

CHAPTER VII.

THE DEATH WARRANT AND THE EXECUTION.

From Friday afternoon, the thirtieth of June, through Saturday, Sunday, Monday and Tuesday, the first four days of July, the record of the findings and sentences remained under the seal of sworn secrecy in the custody of the Judge-Advocate-General. To consummate the work of the Commission, the signature of the President to a warrant approving its action and directing the execution of its judgment was necessary. But, during this interval, as it was given out from the White House, President Johnson was too ill to attend to public business. In the meantime, the city, and even the whole country to its very borders, were agitated by the question: What is to be the fate of Mrs. Surratt? The doom of the male culprits was for the moment forgotten in the intense anxiety over hers.

Despite the seven-fold seal of secrecy which covered the proceedings of the secret sessions, whispers of a recommendation of mercy filled the air. In the War Department, the main source of anxiety, at the same time, must have been this superfluous paper--the distressing outcome of an unsuspected sentimental weakness in five of our chosen men. After the final adjournment of the Commission, the unobtrusive, unaddressed half-sheet had been fastened to the record of the sentences by the same narrow yellow silk ribbon which held its own sheets together, and to which it now dangled as a last leaf, or back. A safety-valve to the misplaced

chivalry of the Court--it had served its purpose, and was henceforth useless. That it should now turn itself into an implement of evil, minister to the cause of rebellion and assassination, cause "Our Own Andy" to flinch at last and thus the she-fiend of the Bureau escape her doom! It would be treason to suffer it. Upon that resolve, the Triumvirate of Stanton, Holt and Bingham had once for all determined. Indestructible, inconceivable, omnipotent, indeed, must that paper be, which could thwart their united purpose.

At length, on the morning of Wednesday, the fifth, Preston King, who, in those days, was a favored guest at the White House, announced in the Judge-Advocate's office that the President was so much better as to be able to sit up; and at a later hour in the day, General Holt, in pursuance of an appointment, started on his solemn errand. The volumes of testimony taken before the Commission by official stenographers, daily reports of which had been furnished, he, of course, did not carry with him. In the interview that was to come, there would be no time and no inclination to read over bulky rolls of examinations and cross-examinations of witnesses. From aught that appears, the President was not expected to read over the evidence, nor was it customary in such cases. It may have been the duty of the Secretary of War or the Attorney-General to scrutinize the testimony, either from day to day or at the close of the trial. But all that the President was supposed to know about the merits of the case appears to have been derived from what any of his Cabinet saw fit to inform him, from what he himself casually and unofficially read, but, especially and principally, from what the Judge-Advocate was now coming to tell him. As to the guilt of the accused, and especially of Mrs. Surratt, his mind had

long ago been made up for him by his imperious War Minister, from whose despotic sway he had not as yet recovered energy enough to free himself. He was still in that brief introductory period of his Presidency which may be called his Stanton Apprenticeship; still eager "to make treason odious;" full of threatenings to hang Davis and other Southern leaders. He had not yet awakened from the state of semi-stupefaction into which his sudden and awful elevation seems to have thrown him; and, in this state, he must have been extremely averse to dwelling on any of the circumstances of the assassination to which he owed his high place. The idea of clemency to any one of the band of assassins, male or female, which his War-Secretary's court might convict, would have been intolerable to his imagination and sickening to his sense of security. What Andrew Johnson, at this moment, wanted was to push away from his mind all thoughts of the tragic end of his predecessor, and to allow retributive vengeance to take the most summary course with the least possible knowledge and trouble to himself. And this mood of the presidential mind was well known to the Judge-Advocate-General, as he entered the President's room. He brought with him so much of the record of the proceedings of the Commission as was necessary to the accomplishment of his errand--viz.: the record of the findings and sentences, which the President was to endorse. This document consisted of a few sheets of legal-cap paper fastened together at the top, written on both sides in the fashion of legal papers, i. e., beginning at the top of the first page and, on reaching the bottom, turning up the paper and writing on the back from the bottom to top. It was a document complete in itself, the written record ending on the first page of the last half-sheet--thus leaving blank the remainder of that page and the whole of the obverse side; ample room for the death-warrant. To this

record, but forming no part of it, the Petition, as we have said, had been affixed, but in such a manner as to be easily separable without mutilation. He must also have brought with him his official report of the trial--styled "The formal brief review of the case," which was subsequently appended to the regular Report of the Judge-Advocate-General to the Secretary of War and transmitted to the Congress in December following--because it is addressed "To the President," is dated "July 5, 1865," and is signed "J. Holt." It recites the verdicts and sentences; justifies its brevity by referring to "the full and exhaustive" argument of Judge Bingham; certifies to the regularity and fairness of the proceedings; and recommends the execution of the sentences; but it makes no mention of the Petition, or any "suggestion" of mercy.

The Judge-Advocate could have anticipated no difficulty in obtaining the approval of the President, conscious as he was that the grounds of such approval were to be furnished to the President by himself. The approval being had, the fixing of the day of execution could cause no disagreement. His only possible source of embarrassment was the petition for commutation. But it would be strange, indeed, if a few apt words could not further emasculate the mild, hypothetical language in which his colleague, Bingham, had seen fit to clothe that paper.

He found the President "alone," and (as he himself says) "waiting for" him, "very pale, as if just recovered from a severe illness."

"Without delay" he "proceeded to discharge the duty which brought" him "into his presence." What took place at this "confidential interview" (as

Holt calls it) can never be precisely known; the distinguished interlocutors having subsequently risen into unappeasable quarrel over the presence or absence of the petition, and given contradictory versions. Whatever the truth may be, it is evident that everything went smoothly at the moment. The Judge-Advocate was not disappointed. No difficulty was encountered. What was done was done quickly and at once. The record may have been read over; but this was hardly necessary, as the bare mention of the several sentences would convey a correct summary of its contents. He may have read the "brief review of the case" he had prepared. As Judge Holt relates, he said to the President, "frankly, as it was his official duty to do," that in his judgment "the proceedings of the Court were regular, and its findings and sentences justified by the evidence, and that the sentences should be enforced." And this was what he had written in his "Brief Review." What more could the successor of the murdered Lincoln want? His approval must have been spontaneous and immediate. As Holt says, "at that time Mr. Johnson needed no urging." Mention may have been made of the curious weakness infecting some members of "our Court" towards the wicked woman, who, as Johnson seems then to have thought, "had kept the nest that hatched the egg;" but only to be scouted by both Judge-Advocate and President as most reprehensible and actually disloyal.

Their unanimity over the salutary effect of the hanging of this one woman on the female rebels was more than fraternal. And it is probable that no more explicit mention of an actual petition was made by Judge Holt in his conversation with the President than was made in his written report to the President, dated the same day, and which he had with him at the time.

The day of execution was fixed upon with the same alacrity. "Make it as soon as possible, so that the disagreeable business may be over; say the day after to-morrow--Friday, the seventh." And, thereupon, everything being agreed upon, Judge Holt turns over the papers to the last page of the record and spreads it upon the table. Beginning, a few lines below the signature of "D. Hunter, President" which closes the record, with the date,

"Executive Mansion, July 5th, 1865,"

"with his own hand" he writes out the death warrant. As this includes the approval of the sentences, the appointment of the day and hour of execution, and the designation of the place of confinement of those condemned to imprisonment, the bottom of the page is reached before he completes his task. If he had turned up the page and continued his writing on the obverse side from the bottom down, as all the foregoing had been written, then the petition of mercy, unaddressed as it was, would have been, if still attached, directly beneath the eye of the President as he signed the death-warrant. But, as now appears from the record itself, the careful Judge-Advocate did not turn up the page from the bottom. On the contrary, reverting to the layman's way of writing papers, he whisks the whole record over, and continues the writing of the death-warrant on the back of the last half-sheet of the record from the top to the bottom--by this change of method, either throwing the petition under the leaves of the record, or, if disengaged, leaving it upside down.

When he has thus finished his draft he shoves it over to the President. The President signs it with tremulous hand. The "confidential interview" is at an end; and the Judge-Advocate, taking up the papers, hurries out and over to the Department of War.

At this moment the petition disappears from view. We hear no more of it. Thrust as a convenient succedaneum into the hands of the majority of the Commission, ignored, suppressed or slurred over when before the President, it had served its pitiful purpose. Neither the Adjutant-General nor any of his clerks, appear to have noticed it, although the record must have been copied more than once in his office. It seems to have sunk suddenly into oblivion; its very existence became the subject of dispute. It was omitted from the authorized published proceedings of the Commission. It was omitted from the annual report of the Judge-Advocate. The disloyal paper must have been laid alongside the suppressed "Diary," there to repose unseen until the Impeachment of Johnson and the Trial of Surratt summoned them together into the light of day.

* * * * *

On the morning of Thursday, the sixth day of July, the six days ominous silence of the War-Department is broken. An order issues from the Adjutant-General's office which, bearing date the day before and reciting the findings and death-sentences of the Commission and the death-warrant of the President, commands Major-General Hancock to see execution done, on the seventh, between the hours of ten and two.

This order was read to Mrs. Surratt at noon. She had all along been encouraged to hope. She, herself, had never been able to realize the possibility of a capital condemnation in her own case. And, here, suddenly, was Death, with violence and shame, within twenty-four hours. She sank down under the blow. In faltering accents she protested that she had no hand in the murder of the President, and pleaded for a few days more time to prepare for death. During the remainder of the day and throughout the night, she was so prostrated by physical weakness and mental derangement as to necessitate medical aid to keep her alive and sane. The cries of her daughter could be heard in the still darkness outside the prison. At five o'clock in the morning, the mother (with the three condemned men), was removed to a solitary cell on the first floor, preparatory to the execution.

In the meantime, when it first became known that, by the sentence of the Commission and the direction of the President, Mrs. Surratt was to die by the rope on the same scaffold with Payne, Herold and Atzerodt within twenty-four hours, a chill of despairing terror froze the blood of her relatives and friends, a thrill of consternation swept over the body of the citizens, and dark misgivings disturbed even the most loyal breasts. A stream of supplicants at once set in towards the Executive Mansion--not only friends and acquaintances of the condemned woman, but strangers, high-placed men, and women too, who were haunted by doubts of her guilt and could in some degree realize her agony.

But even this expiring effort of sympathy, the powers behind the President had anticipated. Apprehensive that Andrew Johnson, at the last moment,

might yield to distressing importunities for more time, they had already taken measures that their sick man's wish to hear nothing till all was over should be scrupulously respected. Preston King and General James Lane undertook to keep the door and bar all access to the President during the dreadful interval between the promulgation of the sentence and its execution. It was rumored that they, with a congenial crew, held high revelry around their passive Chief in his private apartments. Be this as it may, no supplicant--friend, acquaintance or stranger--was allowed to gain access to the President.

The priests, who had attested upon her trial the good character, the piety and the general worth of their parishioner, instinctively turned their steps to the White House to beg for clemency, or, at least, a respite. They were repulsed from its door. In ghastly mockery, they were told to go to ---- Judge Holt.

At last, the daughter of the victim made her way to the very threshold of the President's room. Frenzied with grief she assailed the portal with her cries for admission to plead for her dying mother. She was denied admittance. In the extremity of her despair she lay down upon the steps, and, in the name of God, appealed to the President and to the wardens, only to listen to her prayer. The grim guardians of the door held it shut in her face.

Denied, thus, even an appeal to Executive clemency, the friends of the poor woman, as a last most desperate resort, invoked the Constitution of

their and her country through the historic writ of Habeas Corpus. On the morning of the day of the execution, they found a judge (Judge Wylie; all honor to his memory!) who had the independence and courage to grant the writ. At half-past eleven, General Hancock appeared before the Judge and made return that by order of the President the Habeas Corpus was suspended and therefore he did not produce the body. The order of the President dated ten o'clock, same morning, was annexed to the return and directed the General to proceed with the execution.

No sooner had the guarantees of the Constitution been, thus, finally set at naught, than the cell-doors were thrown open and the prisoners summoned to their doom. As the enfeebled widow raised her trembling limbs from off the coarse mattress which alone separated her body from the stone floor of her dungeon, she strove, in broken words, to assure the soldiers, who had come to bind her arms behind her back and tie cords around her skirts above and below the knee, of her utter, yet helpless innocence. Her confessor, who stood by her until the last, gently pointed out to her the uselessness of such appeals, at such a moment, and directed her hopes towards Heaven.

Amid the tolling of the bells, sending a shudder through the silent population of the city, and heralded by the tramp of armed men, the death-march of the doomed woman and the doomed men begins. The still breathing men and still breathing woman are clothed already in their shrouds. As she totters first along the corridor, accompanied by her priest and requiring two soldiers to hold her erect, the very extremity of her helplessness and woe bears witness in her favor. Even the bloody

Payne, who walks next behind her, has broken through that stolid indifference to his own fate, so remarkable as to indicate insanity, to clear her from all complicity with the assassination. Herold and Atzerodt, who follow, though themselves speechless with terror, seem to wave her mute acquittal, as they stumble along into the swift-coming Darkness. They reach the prison-yard. They mount the high scaffold. They are seated in four chairs facing the four dangling nooses, while the death-warrant is once more read. Their graves, already dug, are in full sight close by. Their coffins stand by the side of the open graves. They are raised up and pushed forward upon the two drops, Herold and Atzerodt on one, Mrs. Surratt and Payne on the other; the half-conscious woman still supported by the two guards. The ropes are adjusted. The hoods drawn over the face. The signal is given. The two drops fall. Surrounded by the unpitying soldiery, headed by the unpitying Hartranft, the woman and the men hang writhing in the agonies of an ignominious death. When pronounced dead, the bodies are cut down. They are laid out on the top of the coffins. A hurried post-mortem examination is made. And, then, at four o'clock in the afternoon, they are inclosed in the coffins and buried side by side. The soldiers depart with flourish of trumpet and beat of drum. Silence descends on the grounds of the old Arsenal; broken only by the pace of the sentinel set to guard the four corpses.

The daughter may beg the stern Secretary to yield up the body of her murdered mother, that she may place it in consecrated ground. But she will beg in vain.

And so ended the fell tragedy. And so did brave soldiers avenge the murder

of their "beloved Commander-in-Chief." Methinks their beloved
Commander-in-Chief, could his freed spirit have found a mortal voice,
would have spurned, with indignant horror, the savage sacrifice of a
defenseless woman to appease his gentle shade.