CHAPTER IV.

THE TRIAL OF JOSEPH HOLT.

On the threshold of his Vindication, Gen. Holt revives the discredited and apparently forgotten declaration made by Mr. Pierrepont on the trial of John H. Surratt, and stakes his whole case upon the establishment of the truth of the allegation that the petition for commutation, attached as it was to the record of the findings and sentences of the Military Commission, was the subject of consideration at a meeting of the Cabinet of President Johnson, and its prayer rejected with the concurrence of the members present at such meeting.

So long as the contention is limited to what took place during that momentous hour between the President and himself, "alone," with the light thrown upon it by the record including the endorsed death-warrant and the affixed paper, he exhibits a certain lack of confidence in the strength of his defense. For, although he prints the "circumstantial evidence," as he calls it, to sustain his own version of the "confidential interview" (consisting of the two letters from his former clerk, heretofore alluded to, and the letter from Gen. Mussey saying that the "acting President" told him of the recommendation "about that time"), he confesses it was not until he recently had secured certain testimony that the petition had been considered by officers of the Cabinet, that he at length felt his case

strong enough to warrant a public challenge of his adversary, and himself justified in submitting it to the public.

In short, we have a sort of reversal of the position of six years before. Then, after having at first put forward the assertion that the petition was considered by the Cabinet, the Judge-Advocate summarily suppresses that branch of his case, and puts into the foreground the explicit asseveration of the identical paper being "right before the President's eyes" when he signed the death-warrant. "He wants no misunderstanding about that." Now, while he keeps in mind, it is true, this version of the confidential interview, he relegates it to the rear, and constitutes the Cabinet consideration the very citadel of his cause.

As to what takes place at a meeting of the Cabinet, its members of course are the first, if not the only, witnesses. And it is a matter of surprise that General Holt, so far as is apparent, never, in all these past years, applied to any one of them to substantiate so essential a part of his vindication. He states that he has always been satisfied that the matter must have been considered in the Cabinet, and adds that "from the confidential character of Cabinet deliberations" he has "thus far been denied access to this source of information." But he does not say when, or to whom, he applied for such "access," or how he had been "denied." It is certain, from what he says elsewhere, that he never applied to Stanton or to Seward; he admits in a subsequent communication that he never applied to McCulloch, Welles or Dennison; and, from the tenor of their letters now in reply to his, it appears he never applied before to Harlan or to Speed. And these are all the members of the Cabinet of President

Johnson in July, 1865. Moreover, he does not, even now, in 1873, make application in the first instance to an ex-Cabinet officer. His first application is made to John A. Bingham, his old colleague in the prosecution of Mrs. Surratt, for Cabinet information in the shape of conversations with the two ministers, who, after so many years of unsolicited silence in life, are now silent, beyond the reach of solicitation, in death. And it is not until he has secured the desired information, which he would have us believe was entirely unexpected, that he is stirred up to the necessity of a public vindication of his character; and then he selects the two of the surviving ministers of the Cabinet, known to be hostile to the ex-President, as the objects of solicitation, sending them, as a spur to their recollections, the letter containing the reminiscences of his serviceable ally. But, by some fatality, the industrious inquirer takes nothing by his somewhat complicated manoeuvre. The letters he produces from Cabinet officers afford him no assistance. Judge Harlan can recall only an informal discussion by three or four members of the Cabinet (Seward, Stanton, himself and probably Speed) of the question of the commutation of the sentence of Mrs. Surratt because of her sex; which, she being the one woman under condemnation, would surely arise in a tribunal of gentlemen, whether there was a recommendation or not, as in fact it did even among the stern soldiers of the Military Commission. But the writer, who, as Senator from the State of Iowa, had voted for the conviction of President Johnson, makes the positive declaration, that "no part of the record of the trial, the decision of the court, or the recommendation of clemency was at that time or ever at any time read in my (his) presence." He remembers, with undoubting distinctness, inquiring at the time whether the

Attorney-General had examined the record, and was told that the whole case had been carefully examined by the Attorney-General and the Secretary of War; and he states that the question was never submitted to the Cabinet for a formal vote.

This letter is most significant, both for what it says and for what it refrains from saying. Its positive statement annihilates the story of a "full Cabinet" when "the vote of every member" was adverse, and indeed of any Cabinet meeting whatever, where the paper was present and considered--such a story as Judge Pierrepont first gathered from the "voice" of Holt; and the absence of all affirmation that the writer had either seen or heard of the recommendation, while he expressly states that it was never read in his presence (considering the occasion and object of the letter and the bias of the ex-Senator), warrants the conclusion that such a document was not mentioned at the informal Cabinet consultation he describes.

In any view, the letter furnishes no support to Holt's contention. The writer expressly negatives the presence of the record and the paper, and he does not affirm that such a petition was alluded to, in terms, in the discussion in the presence of the President; which he surely would have done, in aid of his sorely tried friend, if such had been the fact.

The Judge-Advocate fares even worse at the hands of the Ex-Attorney-General. Here is a man who knew, if any other member of the Cabinet except Stanton knew, whether the paper in question ever came up for discussion before the President in his Cabinet. He goes so far as to

say that, after the findings and before the execution, he saw the paper attached to the record "in the President's office;" a statement which reminds us of another of the same elusive and evasive character, (that the paper was "before the President"), and, like that, affirms nothing one way or the other as to the consciousness of the President of its presence.

And then he proceeds as follows:

"I do not feel at liberty to speak of what was said at Cabinet meetings. In this I know I differ from other gentlemen" (presumably an allusion to the Seward and Stanton of Bingham's letter), "but feel constrained to follow my own sense of propriety."

His friend's necessity would have been met by something less than a repetition of what was said at Cabinet meetings. He had only to tell whether he saw a certain paper (not in the President's office), but at a meeting of the President and his advisers, or knew of the recognition there of its mere existence;--a revelation which would not have violated the most punctilious sense of official propriety; and he feels constrained to withhold the least ray of light upon so simple a question.

The witness "declines to answer."

Ten years after the present controversy, Judge Holt, feeling acutely this weak point in his vindication, again appeals to Speed, in the most moving tones, to break his unaccountable silence and rescue his friend's gray head from "the atrocious accusation," "known to him to be false in its

every intendment," with which that perfidious monster, dead now eight years, and, (as Holt significantly quotes), "gone to his own place," sought "to blacken the reputation of a subordinate officer holding a confidential interview with him."

And, strange to say, Speed first neglects even to reply to Holt's repeated communications for six months, and then just opens his lips to whisper, "I cannot say more than I have said." He had offered in private (if we may credit Holt) to write a letter to his aggrieved friend, giving him the desired information, "but not to be used until after Holt's death;" a proposition quite naturally discouraged by Holt, who made this sensible reply: "that a letter thus strangely withheld from the public would not, when it appeared, be credited."

But, when repeatedly implored to spread "the desired information" before the public, he again declines to answer. James Speed would not tell the truth, when by telling the truth he might relieve his old friend in "the closing hours of his life" from a most damnable calumny, because, forsooth, "of his sense of propriety." He could not violate the secrecy of a Cabinet meeting, held nearly twenty years before; a secrecy which he had good reason to believe had already been broken, in the professed interest of truth, by three of his own colleagues, and, in the alleged interest of a most foul falsehood, by the President himself.

Before the Judge finally gives up his old associate as hopeless, he craftily points out to him a way by which the ex-Cabinet officer may give his testimony without violating the most punctilious sense of propriety,

not only, but without departing one iota from the literal truth. Since his first letter, General Holt informs him: "I have learned that although you gained the information while a member of the Cabinet, it was not strictly in your capacity as such, but that at the moment I laid before the President the record of the trial, with the recommendation for clemency on behalf of Mrs. Surratt, you chanced to be so situated as to be assured by the evidence of your own senses that such petition of recommendation was by me presented to the President, and was the subject of conversation between him and myself." Does this mean that Speed was an unseen spectator of the confidential interview, and witnessed the writing of the death-warrant? At all events, for some reason, the ex-Attorney-General was afraid to accept this opportunity to equivocate.

Holt may well wonder at Speed's obstinate silence. He exclaims: "It is a mystery to me." It will be a mystery to every one, provided the black charge was false. But, on the hypothesis that the charge was true, that the paper was suppressed, either actually or virtually, there is no mystery.

Had Speed known that the paper was, not only "before" the President, but considered by him, either in or out of the Cabinet, it is beyond the limit of human credulity to believe, for a moment, that, with all possible motives to lead him to succor his friend, and with none to lead him to shield the character of his dead political foe, he would not have uttered the one decisive word in the controversy. And he comes as near doing so as he dares, evidently. He shows, in 1873, a yearning to help his old friend--a yearning so strong that we may be sure it was not the frivolous

pretext of "official propriety" which constrained him, then, much less in 1883.

If he, too, as Holt said of Stanton, feared the resentment of the dethroned Johnson in life, he certainly could not have feared the resentment of Johnson's ghost after death.

He must be numbered among those who,

> "With arms encumbered thus, or this head-shake,
> Or by pronouncing of some doubtful phrase,
> As, 'Well, well, we know;' or 'We could, an' if we would;' or
> 'If we list to speak;' or 'There be, an' if they might;'"

"ambiguously give out" to know what they are sworn "never to speak of." If there was any oath-guarding "fellow in the cellarage," rest assured it was not the pale wraith of the hood-winked Johnson, but the blood-boltered spectre of his once wide-ruling Minister of War.

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Amid such a dearth of direct explicit testimony of members of the Cabinet about a disputed Cabinet incident, it is curious and interesting to watch the assiduous ex-Judge-Advocate, with the most ingenious and industrious sophistry, attempt to extract corroboration from the statements of the two ex-Cabinet officers, whom he has induced to speak, where in truth no corroboration can be found.

After all his efforts, he is forced at last to fall back upon the single testimony of the one man without whose encouraging information he frankly informs us he would not have dared to come before the people, and upon whom he brings himself to believe he might safely rest his defense. That man is John A. Bingham, now, as once before, Special Assistant Judge-Advocate to Joseph Holt.

During the eight years which had elapsed since their crowning achievement of hanging a woman for the murder of Abraham Lincoln, these two men had lived, for a considerable portion of the time, in the same city. They were together in the contest over reconstruction and impeachment, standing in the front rank of the enemies of Johnson. They were both at the Capital during the trial of John H. Surratt, when the ghastly reminiscences of the trial of the mother along with seven chained men must have drawn the two military prosecutors into a most sympathetic union.

And yet when, in February, 1873, Joseph Holt sits down in Washington to write his letter of inquiry to John A. Bingham, then in the same city, he would have us believe that he had never before poured into the bosom of his old colleague his own sufferings over the frightful calumny so long poisoning the very air he breathed, never before told him his embarrassment over the difficulty to elicit evidence from Cabinet officials, never before besought his friend for his own powerful testimony on the side of his persecuted fellow-official.

He writes to his former assistant, as though the information were now

communicated for the first time, that the President and he were alone when the record was presented and the death-warrant signed; that he had always been satisfied the petition was considered in a Cabinet meeting, but has hitherto been unable to obtain any evidence upon that point; and then, in an artless, ingenuous manner, as if putting the question for the first time, asks his correspondent whether or not he had had a conversation with William H. Seward, Secretary of State under President Johnson, in reference to the petition, and "if so, state as nearly as you may be able to do all he said on the subject;" with a like request as to Edwin M. Stanton, Secretary of War.

With a diviner's skill he selects the two members of the Cabinet who are then dead; and, not to disappoint him, Bingham, in a letter from Washington six days later, informs him that he has struck the two-fold mark. With the same apparent artlessness which characterizes the letter of inquiry, this useful advocate now, as if for the first time, discloses to his long-tried colleague, that he did indeed have a conversation with each of the eminent men he had hit upon, who are now, alas! dead.

Judge Bingham is a most willing witness. He relates with great circumstantiality that "after the Military Commission had tried and sentenced the parties" he "prepared the form of the petition to the President." He then gives the form thus prepared as he now recollects it (in which there are two significant mistakes); he states that he wrote it with his own hands, that General Ekin copied it, and the five signed the copy; as if all this particularity had any relevance to the question at issue, as if the point in dispute was the existence of the paper, and not

its suppression at a critical moment after it was written. He affects to believe it necessary to state to his old colleague, that he "deemed it his duty to call the attention of Secretary Stanton to the petition, and did call his attention to it before the final action of the President;"--as if it were among the possibilities, that the head of the War Department could in any case have overlooked so important a paper, much less that the imperious Chief of this very prosecution could have been kept in ignorance, one hour, of what was done by his tools.

The Special Assistant, however, at last comes to the point:

> "After the execution, the statement to which you refer was made that President Johnson had not seen the petition for the commutation of the death sentence upon Mrs. Surratt. I afterwards called at your office, and, without notice to you of my purpose, asked for the record in the case of the assassins. It was opened and shown me, and there was then attached to it the petition, copied and signed as hereinbefore stated."

Oh, what an artless pair of correspondents! The former Special Assistant tells the former Judge-Advocate how he played the detective on him to his friend's justification; "without notice of my purpose"!

> "Soon thereafter I called upon Secretaries Stanton and Seward, and asked if this petition had been presented to the President before the death-sentence was by him approved, and was answered by each of those gentlemen that the petition was presented to the President, and was

duly considered by him and his advisers, before the death-sentence upon Mrs. Surratt was approved, and that the President and the Cabinet upon such consideration were a unit in denying the prayer of the petition; Mr. Stanton and Mr. Seward stating that they were present."

In weighing the credibility of this statement, so conclusive if true, two considerations should be borne in mind.

1. That we have here, not the testimony of either Seward or Stanton, but the testimony of a man who, if the paper was in fact suppressed, must have been a participant in the foul deed. For no one will believe, for a moment, that Joseph Holt would have dared to perpetrate, if he could, or could have perpetrated, if he dared, so unspeakable a wickedness, without the knowledge and coöperation of his fiery leader in the conduct of the trial.

2. If this decisive information was in the possession of Judge Bingham at so early a date as "soon after the execution," why had he not communicated it to his distressed partner while Stanton and Seward lived? He had taken pains to obtain it to meet the ugly stories that were even then circulating against the Judge-Advocate. He knew it at the time of the struggle at close quarters over the petition during the Surratt trial, and he must have been cognizant of the fact, that for the lack of it, that officer had been forced to withdraw the allegation of a full Cabinet consideration of the petition, which he had at first prompted the counsel of the United States boldly and publicly to make.

After the trial the reports grew louder and louder, until it was everywhere said that Andrew Johnson habitually declared that he had never seen the paper. Holt ran hither and thither collecting testimony from all available quarters. Hear Holt himself: "Every time the buzz of this slanderous rumor reached him (Bingham) during the last eight years--which was doubtless often--his awakened memory must have reminded him that he held in his keeping proof that this rumor was false." Why did not his former assistant even relieve his tremendous anxiety by telling him that he had evidence which would blow the calumny into the air? General Holt, in a letter in reply to Bingham's, dated at Washington the next day, which he also prints in his Vindication, says:

"It would have been fortunate indeed, could I have had this testimony in my possession years ago."

He calls its concealment "a sad, sad mockery." Yes; and why was Judge Bingham willing to perpetrate such a "mockery," and continue the "mockery" until Stanton's death, and then until Seward's death, which occurred only a few months before he at last enlightens his colleague? Can the most credulous of men believe that, during all these years, he was guilty of such cruelty as not even to whisper such welcome intelligence into the ears of his sorely distressed brother officer?

And what shall we say of William H. Seward?

If that great man told Judge Bingham in 1865 what the Judge, after Seward was dead, first says he did, why had William H. Seward kept silent so many

years, and at last died and made no sign? He must have heard the charge, so infamous if false, and, if Judge Bingham be believed, he must have known it to be false.

He must have heard the statement of Judge Pierrepont in open court in 1867. He must have known of the President's sending for the record and of the explosion thereupon in the Department of War. Why did he not at that crisis come forward with the proof of which the Judge-Advocate was so dreadfully in need?

The Secretary of State could not have intrenched himself behind the inviolability of proceedings of Cabinet meetings, as did the over-scrupulous Attorney-General, because, according to Judge Bingham, he himself had betrayed the secret long before.

And why did not Judge Bingham force him to speak, or else make public his interview with him, while Seward was alive and could either affirm or contradict it?

No, these two eminent lawyers, yoked together as the common mark of what they call a "most atrocious slander," originating with a President of the United States, bruited about everywhere both in official and private circles, wait eight long years, and until after the death of the head of that President's Cabinet, from whose lips one of them at least had heard at its very inception a solemn refutation of the black lie, before they venture to proclaim it to the world.

Mr. Bingham admits in his letter that, in 1865, "he desired to make" the facts he had ascertained "public." Why did he not "make public" what Seward had told him, while Seward was living?

He furnishes no answer to this question, and until he does, his testimony on the matter is tainted with a most reasonable suspicion.

And, besides, what we know of the situation of the Secretary of State at the time of the execution of Mrs. Surratt, of his subsequent career, and of his lofty character as a man, is sufficient to stamp the account of Judge Bingham as incredible.

William H. Seward, one of the most distinguished statesmen of the era of the civil war, one of the most illustrious founders of the republican party, and one of the most trusted advisers of Abraham Lincoln, remained in the Cabinet of Andrew Johnson until the close of his administration. He united in the pardon of Mudd, Spangler and Arnold. He stood by the President fearlessly in the dark days of the impeachment, and when the President had become the target of the daily curses of thousands of Seward's former political friends. Had he known that the accusation against General Holt was false, and at the same time heard the daily reiteration of its truth from the lips of his Chief, he would not have remained an hour in the Cabinet of such a monumental slanderer. So far from allowing the ceremonial restraints of Cabinet rules to make him a silent accomplice in a foul falsehood, he would have proclaimed the truth, if necessary, even from the steps of the Capitol.

Mr. Seward, at the time of the execution of Mrs. Surratt, could have but barely recovered from the broken jaw and broken arm from which he was suffering, when he bore the savage assault of Payne, and from the grievous wounds which that mad ruffian inflicted. One of his sons was still incapacitated because of injuries from the same hand, and his wife died June 21st, 1865. It is not at all probable that, in such dolorous circumstances, he would be required to give close attention to a subject entirely outside of the duties of his department, and in which his personal feelings as a sufferer were so deeply involved. He said himself under oath to a Congressional Committee: "Having been myself a sufferer in that business, the subject would be a delicate one for me to pursue without seeming to be over-zealous or demonstrative."

In spite of the eight-years-embalmed testimony of a hundred Binghams, we would not believe that the uncomplaining victim of Payne voted to deny the Petition of Mercy.

While no attempt is made to explain the silence of Seward during his lifetime, or the silence of Judge Bingham himself regarding the information he got from Seward, this willing witness does give a most singular and perplexing explanation of his long silence regarding the information he got from Stanton.

He says: (in the same letter) "Having ascertained the fact as stated, I then desired to make the same public, and so expressed myself to Mr. Stanton, who advised me not to do so, but to rely upon the final judgment of the people."

General Holt, in a subsequent article, states that Stanton "enjoined upon the Judge silence in reference to the communication."

We are called upon to believe that the Secretary of War, at the very first interview with Judge Bingham, when, upon the theory of the truth of the information, there could have been no conceivable motive for its concealment, advised his inquiring friend to suppress a fact essential to the refutation of a despicable slander, blotting the fair name of a brother officer. Not only this; but that the Secretary continued the injunction of silence during all the years the terrible charge was being bandied about on the lips of men to the daily torment of the poor man so cruelly assailed. As General Holt says: "It was a deliberate and merciless sacrifice of me, so far as he could accomplish it."

And he "enforced" the "silence" up to the day of his death.

But we ask what reason had the "Great War Minister" "to perpetrate so pitiless an outrage?" Why, in the days of the trial of John H. Surratt, why, in the days of his stern enmity towards the President, when his removal furnished the main ground of impeachment, did he not once speak out for his slandered servant, or even unlock the sealed lips of the obedient Bingham and suffer him to tell the truth?

General Holt, in 1883, on affirming in the text of his article that "Messrs. Seward and Stanton declared the truth to Judge Bingham," adds the following explanatory note:

"This praise was certainly due to Mr. Seward, but not, in strictness, to Mr. Stanton, since on making the communication to Judge Bingham, he endeavored and successfully, to prevent him from giving it publicity.

"The fear of Andrew Johnson's resentment, added to a determination on his part to leave my reputation--then under fire from his silence--to its fate, sufficiently explain his otherwise inexplicable conduct."

But does it? Is this in truth a sufficient explanation?

Stanton, the stern War Minister, fear the resentment of Andrew Johnson! When was he taken with it? When he bearded the President in his Cabinet? When he defied him in the War Department, and scattered his missive of removal to the winds? Or did he wait to begin to fear him until the President retired to private life, just escaping conviction by impeachment, and shorn of all popularity North or South? The preposterous nature of the cause assigned casts suspicion upon the assignor himself. As to the second cause, we are at a loss to conceive why Mr. Stanton should harbor such motiveless malignity against the reputation of his former colleague, then his pliant subordinate, and always his friend. We need, in this regard, an explanation of the explanation. If it be true, it settles the character of Stanton for all time.

But, it appears, in the words of General Holt, that "while he (Stanton) lived, this enforced silence was scrupulously obeyed." Again we ask why?

Why should Bingham have obeyed the "advice," even if given by Stanton so long before? Why should the associate of Holt, in the prosecution and execution of Mrs. Surratt, have ministered to the malignity of Stanton, scrupulously obeyed his base injunction, and never even told his beloved fellow-laborer on the field of courts-martial, that he possessed such secret sacred testimonials in his favor?

The General gives us no explanation of this "inexplicable conduct."

Surely, the undaunted Bingham--who, as manager on the impeachment trial, so clawed the character of the arraigned President, could have had no "fear of the resentment of Andrew Johnson." And, unless the masterful Stanton held some secret back to feather his "advice," or lend weight to his injunction of silence, we see no reason why the fear of Stanton should have closed the lips of the voluble Special Judge-Advocate. He surely could not have joined in the fine irony of the Secretary, that it would be better for their mutual friend, although "under fire," "to rely on the judgment of the people."

But another, and a final, explanation is necessary. The Great War Minister died in December, 1869. Holt more than hints that "Providence" shortened his life so that he should no longer "perpetrate so pitiless an outrage" as keeping Bingham's mouth shut.

Why, then, do we hear nothing from Judge Bingham for three years more? In the words of Holt, "after the Secretary had, amid the world's funeral pomp, gone down into his sepulchre, the truth came up out of the grave to

which he had consigned it," and was "resurrected and openly announced by Judge Bingham." But why was the resurrection delayed until February, 1873? He does not tell us. Why should "the buzz of this slanderous rumor" (to use Holt's own words), "sadly recall to him that, though holding that proof, he was not yet privileged to divulge it?" There is no answer to this; none. The "scrupulosity" of Bingham did not end with the providential taking off of Stanton, but prolonged its reverential obedience to the advice of the dead, until his great colleague also was summoned from the scene.

Such resurrected truth, like the suggested letter of Speed to be used only after poor Holt's death, seems doubly obnoxious to the latter's own common sense remark: "thus strangely withheld from the public, it would not, when it appeared, be credited."

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On the whole, it is exceedingly doubtful whether Judge Bingham's testimony does not do more harm than good to General Holt's case. It is the testimony of an accomplice, if the charge it is meant to refute is true. Its subject-matter is hearsay, withheld, so long as the direct evidence was attainable, for no good reason, or for a reason assigned which will not stand a moment's examination.

This interchange of letters between two associates in infamy, if infamy there were, the one applying for, and the other disclosing ostensibly for the first time, at so late a day, decisive information, which, in the

ordinary course of things, the one must have asked for or the other revealed, and both talked over from the beginning, wears upon the face all the features of a collusive correspondence.

No one acquainted with the facts can be induced to credit what both these men state upon the threshold of their correspondence, and upon the truth of which their credibility is staked for all time, that, if two such conversations with Judge Bingham actually took place, this co-victim of a common charge would ever have withheld all knowledge of such important testimony from his brother in affliction for eight years, and until the lips of his two eminent interlocutors, whose confirmation would have at once and for ever crushed the calumny, were closed in death.

And, with this incontrovertible assertion, we dismiss John A. Bingham to keep company with Richard Montgomery and Sanford Conover, two witnesses who were once the subjects of his own fervid eulogy.

Another aspect of the case must for a moment detain us.

Under the admitted fact that the President approved the death-sentence on Wednesday, July 5th, it is by no means clear how we are to find room for this supposed Cabinet meeting.

The natural construction of Bingham's letter would lead us to believe that the Cabinet meeting, which the two Secretaries are said to have described, was a regular consultation between "the President and his advisers," held before the "confidential interview" at which the President "approved the

death-sentence;" and that the entire Cabinet voted on the question raised by the petition, because it was "a unit in denying the prayer." This is but another version of the "full Cabinet" of Judge Pierrepont's first statement, and forcibly suggests that the two have an identical origin--at first withdrawn under compulsion while Seward lived, at last brought forward again after his death.

And every one, on such construction, would expect to hear the voices of McCulloch, Welles and Dennison, still living in 1873, and accessible to the ex-Judge-Advocate.

He states in his "Refutation," that he "had satisfactory reasons for believing that they were not there;" but he could not have gathered those reasons from Judge Bingham or his letter, which really is only consistent with the presence of some, if not all, of the three; and it is naturally to be inferred he got them from the ex-members themselves in letters repudiating all knowledge of the petition;--letters he takes care not to publish.

Again: the Cabinet meeting described in Judge Bingham's letter cannot be made to square with the meeting described in the letter of Judge Harlan. The former was a regular Cabinet meeting, the latter was an informal discussion by a few members of the Cabinet. At the one, the petition was "duly considered," at the other, neither record nor petition was present. At the one, "a formal vote" was taken upon the "question as to Mrs. Surratt's case;" at the latter, her case "was never submitted to a formal vote."

But--not to dwell further on dispensable points--it is enough to say that any Cabinet meeting whatever, for the consideration of the petition, held before the President's approval of the death-sentence, is, on the admitted facts of the case, an impossibility.

Indeed Holt himself, when driven to the question, does not claim that there was. The record was in the custody of the Judge-Advocate from the 30th of June until that officer carried it to the President on the 5th of July, and during that interval the President was sick-a-bed. It was General Holt, as he himself states, who first "drew his attention to the recommendation," and "the President then and there read it in my (his) presence." And this was at the confidential interview on Wednesday, July 5th. There could have been no meeting of the President and his Cabinet at which the record and petition were present and discussed, "before the approval of the death-sentence;" which confessedly was done at the confidential interview.

When this impossibility was pointed out by Andrew Johnson, General Holt, in his "refutation," with great show of indignation, denounces such an argument as "intensely disingenuous." While conceding at once that from the adjournment of the Commission to the 5th of July, the President "had been sick in bed, and had, of course, had no opportunity of conferring with any members of his Cabinet;" he proceeds to show what his idea of intense ingenuousness is, by claiming that what "Messrs. Seward and Stanton" (of Bingham's letter) "clearly meant was, that before the President had finally and definitely approved the sentences in

question," the recommendation to mercy "had been considered by him and his advisers in Cabinet meeting;" and therefore such a meeting might have been held after the signature to the death-warrant, say on Wednesday afternoon (5th), or on Thursday, the 6th. And he, now, once again, as in the days of the Surratt trial, abandons all idea of a "full" or regular Cabinet meeting, and endeavors, with the most transparent sophistry, to identify the informal discussion of Judge Harlan's letter with the Cabinet Council of Judge Bingham. But alas! for the ingenuous General! Circumstances are too strong for him. For there is no more room for a Cabinet meeting, formal or informal, to do what Judge Bingham's informants are said to relate--i. e. consider, and then vote upon the petition--after the confidential interview than before.

It is agreed on all hands that the President approved of the death-sentence on Wednesday, at the confidential interview between Holt and himself, and, at that very time, and by the same warrant, appointed Friday the 7th, for the executions. The whole matter was begun and ended in an hour.

There was neither opportunity, nor, if there had been, use, to hold a Cabinet consultation upon the question of commutation after that.

The President had reviewed the record, and, without consultation with any human being but Holt, put his name to the death-warrant. Why consult his confidential advisers after he had decided the whole matter? Holt himself says that, at this private interview, it was not he, but Andrew Johnson, who had fully made up his mind that Mrs. Surratt must be put to death;

that the President needed no urging or advice on that subject; that he inveighed against the women of the South with a ferocity which reminds us of the loyal Bingham himself. Holt says that the President himself, without a suggestion from him, was "prompt and decided" "as to when the execution should take place," "and in the same spirit too, in which he subsequently suspended the writ of Habeas Corpus, he fixed the Friday following." Why call in his "advisers" after he had, with the approval of his judgment and his conscience, put his hand to the work of blood! Besides, if he needed such a supererogatory endorsement of his "advisers," there was no time to get it.

The record with the death-warrant went direct to the Adjutant-General's office that very Wednesday. Holt cannot remember whether he took it or not, nor can the Adjutant-General remember when or how he received it. But this is of no consequence. The order for the execution was drawn on that day, the necessary copies made that day; it was promulgated on the morning of Thursday the 6th, and on that day at noon, the warrant for her death, within twenty-four hours, was read to the fainting woman in her cell. All day long, on the 6th, the White House was besieged by her friends, her priests and her daughter, to obtain a reprieve. The guardians of the President had no time to hold Cabinet consultations over foregone dooms of death. They were too busy intercepting verbal prayers for mercy, holding shut the doors of the President's private room, sending away all petitioners, for a few more hours' life, to the merciful Judge-Advocate, making sure that there should be four pine coffins and four newly dug graves, and that the Habeas Corpus should not leave one empty. Hold a Cabinet meeting after the President had signed the bloody warrant, and

Stanton had once clutched it! Reopen the perilous question to hear Welles and Dennison, and McCulloch and Seward, to say nothing of Harlan and Speed And Stanton, discuss a petition addressed to the President who had already denied it! "Five members of our court have been suborned by their feelings to swerve from their duty. We run no more risks of soft-hearted gallantry this time amid the members of the Cabinet. Let the funeral games begin."

The ex-Judge-Advocate insists that the signature to the death-warrant was a matter of very little moment. The President could withdraw it at any time. But would he have us believe that, after the President had dispatched such a fatal missive to the officer whose sole duty, with regard to it, consisted in the promulgation of an order for its execution within twenty-four hours, such action was simply provisional and, according to usage, still subject to rescission by a Cabinet vote?

Desperate, indeed, must be the necessities of a defence, which drive the defendant on the forlorn hope of identifying a Cabinet meeting, voting as a unit to deny a petition for clemency, "before the death-warrant was approved," with a Cabinet discussion of the petition, after the death-warrant, fixing the execution on the next day but one, had been signed by the President, (who is represented as urgent and eager at the moment of his signature to exact in the shortest time the extremest penalty); on the ground that the latter was held before the theoretical animus revocandi of the Executive had become technically inoperative with the last sigh of the condemned.

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It has been suggested by one of his subordinate officers that the Secretary of War having seen the petition as soon as the record came to his department, it is inconceivable that, at some moment between the 30th and the 7th, the matter should not have been discussed by him with the President.

Of course, there can be no doubt that Stanton knew all about the recommendation. But, (and this obvious answer seems to have altogether escaped the attention of his friend), if the paper was in fact suppressed, it was suppressed with Stanton's own knowledge. Indeed, his must have been the master-hand. He it was who kept the late Vice-President up to the mark of severity as long as the bloody humor lasted.

He was the sovereign, and Bingham and Holt but his vassals. Everybody will give them the credit of not having dared to dream of suppression without the electrifying nod of their imperious lord.

And, from the long silence of one, if not both, of his slaves, it would appear, that he not only directed the suppression of the paper, but was too proud to deny, or suffer his minions to deny, it to his dying day.