

CHAPTER VI.

CONCLUSION.

That the petition for commutation was a device of the Triumvirate of prosecutors to secure the coveted death-sentence, employed in reliance upon the temporary ascendancy of the chief of the three over the beleaguered President, and upon the momentary pliability, heedlessness, or, it may be, semi-stupefaction of the successor of the murdered Lincoln, to smother the offensive prayer:--such an hypothesis alone seems adequate in any degree to reconcile the apparent contradictions, clear up the perplexities and solve the mysteries, which hang around this dark affair.

It furnishes the only rational answer to the else insoluble question, how it happened that a court, a majority of whose members had the inclination and the power to lower the punishment of the solitary woman before them to life-long imprisonment, as the court did with the three men who were tried with her and convicted of the same crime, did nevertheless, by at least a two-thirds vote, condemn her to die by the rope.

It lights up the else inscrutable prohibition by Stanton of a public exculpation of his subordinate officer, softened by the sardonic admonition "to rely" for justification "on the final judgment of the people." A source of glorification, rather, it should be, that no maudlin pity for a woman had been suffered to intercept the death-stroke of a

righteous vengeance.

It accounts for the "scrupulous obedience" of Bingham, not only until Stanton's death, but three years after, until Seward, too, had gone. Stanton knew the petition had been suppressed or made invisible; Seward, that the petition never had been before the Cabinet.

It throws a glimmer, faint it is true, on the shameful attitude of Speed, eight years after the death of Johnson--still shutting his ears to the repeated appeals of his agonized friend, and still falling back on his propriety. According to Judge Harlan, the whole record had been examined by the Attorney-General, as well as the Secretary of War. Speed, too, under the spell of Stanton, may have fingered the obnoxious paper, which might nip the bloody consummate flower of his "common law of war."

It furnishes the only plausible reason why such an historic document did not appear in the published official record of the proceedings of the Military Commission, in November, 1865, or in the reports of the Judge-Advocate, first, to the President, and, second, to the Congress.

It illumines with a baleful light the atmosphere of sinister secrecy, in which this adjunct to the record, for no lawful reason, has been enshrouded; the mysterious incidents at the Surratt trial, such as the tardy and reluctant production, the faltering and imperfect exhibition, and the hasty withdrawal of the "roll of papers;" the two statements of Mr. Pierrepont; the shrinking of the "full Cabinet meeting" into a "confidential interview," until after Seward's death; and the singularly

equivocal language that the petition was "before the President" when he signed the warrant.

And, finally, when it is considered that the suppression of the paper was not the overt act of any one man, but the result of a strictly formal presentation of the record on the part of the Judge-Advocate, aided, it may be, by a timely sleight-of-hand in writing the order of approval, and of a blind carelessness on the part of the President in the examination of the papers; this hypothesis goes far to explain the reluctance of General Holt to rest his defense on his own evidence of the confidential interview, his eager grasping after Cabinet corroboration, and the abstention of both Judge-Advocate and President from taking official action upon the charge, the one for vindication, the other for punishment.

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And so the history of this murder of a woman by the forms of military rule slowly unrolls itself, to disclose, as its appropriate finis, the writer of the death-warrant struggling in the meshes of his own fraud.

The draughtsman of the unaddressed petition for commutation, after waiting eight years for death to clear the way, comes to the help of his old colleague, only to be caught in the same net.

The entangled twain call up the sullen shade of their departed master, and force him to father the trick he fain would have scorned.

These three are the men who, when the summary methods of martial law would else have failed to crush out entirely the life of their victim, contrived to attain their bloody end by cool and deliberate chicanery.

The other actors on the scene may plead the madness of the time. For these three no such plea is open. They superadded to the common madness of the time the particular malice of the felon. Upon their three heads should descend the full weight of criminal turpitude involved in this most unnatural execution.

They sat upon the thrones of power. They dragged a woman from her humble roof and thrust her into a dungeon. They chose nine soldiers to try her for the murder of their Commander-in-Chief. They chained her to the bar along with seven men. They baited her for weeks with their Montgomerys and Conovers, their Weichmans and Lloyds, the spawn of their bureau, dragooned by terror or suborned by hope. They shouted into the ears of the court appeal on appeal for her head. And, when at last five of their chosen sons sickened at the task, and shrank from shedding a woman's blood, they procured the death-sentence by a trick. They forged the death-warrant by another. They turned thimble-riggers under the very shadow of the gallows. They cheated their own court. They cheated their own President. They cheated the very executioner. They sneaked a woman into the arms of death by sleight-of-hand. They played their confidence game with the King of Terrors. They managed to hide the cheat from the country until they quarreled with their new Commander-in-Chief. Then ensued an interval of ambiguous mutterings, dark equivocations, private accusation, private defenses. From one side: "I never saw the paper." From the other: "It was

right before his eyes."

The twin ex-Judge-Advocates, at length, brace each other up to the sticking-point and venture on an appeal to the public. The ex-President, thus driven at bay, fulminates the secret infamy in all its foul extent to the whole world. Thereupon, Great Nemesis finds her opportunity, and makes these once high-placed, invulnerable woman-slayers the sport of her mighty hands.

Every one, as if coerced by some magic power, comes at last to act as though he were afraid of the other, and, willing or unwilling, contrives to show how profoundly base the others are.

Stanton slinks mysteriously into the shadow of death, refusing to cut his co-conspirator down from the gibbet where the dreaded Johnson has swung him. Bingham, standing like an Indian with a single female scalp bleeding from his girdle, presses his finger to his lips until Stanton and Seward die. Speed, with the obnoxious petition pressed again and again to his nostrils, feebly yet persistently refuses to open his mouth.

Holt pictures the dead Johnson exulting even in Hell over the silence of his old Attorney-General; blasts the character of Stanton by ascribing his injunction of silence to a motive the most diabolic; and, unconscious seemingly that he does it, at the same time ruins the credit of Bingham by extolling his "scrupulous obedience" to such an infernal command.

Johnson unwittingly proclaims the pardon of the slain woman in his anxiety

to show that he signed her death-warrant through ignorance, forced upon him by the ineffable depravity of the men in whom he was compelled to trust.

This controversy over the petition of clemency was the only thing needed to round out and decorate the entire, complete and perfect iniquity of the whole drama. It is immaterial and indifferent to history where the truth lies between these combatants in so unsavory a strife. Each one tears off the burning brand of shame, not to extinguish it, but to pass it on to his colleague. If we credit Holt, it is difficult to conceive the malignity of soul of Andrew Johnson, who could invent so foul a charge, the meanness of spirit of Edwin M. Stanton, who, knowing its blackness, could forbid the promulgation of the truth, the cowardly silence of John A. Bingham, whose lips the death of the dreaded Stanton alone could uncloset. If we credit Johnson, then in all the crowded catalogue of inquisitors, persecutors, cruel or pettifogging prosecuting officers, devil's advocates and murderous Septembrisers, there is not one who would not spurn with profane emphasis association with Holt or Bingham or Stanton.

As the choicest specimen in this shower of accusations and counter-accusations, listen to the tender-hearted ex-Judge-Advocate of 1873--once the stony head of the death-dealing Bureau--rebuking Andrew Johnson for his cold-blooded cruelty! "I would have shuddered to propose the brief period of two days within which the sentences should be executed, for with all the mountain of guilt weighing on the heads of those convicted culprits I still recognized them as human beings, with souls to be saved or lost, and could not have thought for a moment of

hurrying them into the eternal world, as cattle are driven to the slaughter-pen, without a care for their future."

Listen again to the former expounder of the "common law of war" before the Military Commission, as he arraigns the ex-President for his disregard of the writ of habeas corpus: "The object of which was, and the effect of which would have been, had it been obeyed, to delay the execution of Mrs. Surratt at least until the questions of law raised had been decided by the civil courts of the District; yet this writ was, by the express order of the President, rendered inoperative. And so, under this Presidential mandate, the execution proceeded. * * * But for his direct intervention and defiant action on the writ, whatever might have been the final result, it is perfectly apparent her life would not then have been taken."

Once more. Hear J. Holt, the Recorder of the Commission! "As Chief Magistrate he was, under the Constitution," (HEAR HIM!) "the depository of the nation's clemency and mercy to the condemned, and a pressing responsibility rested upon him as such to hear the victims of the law before he struck them down." (The italics are his who wrote out the death-warrant.) "Did he do this? On the contrary, * * he gave * * a peremptory order to admit nobody seeking to make an appeal in behalf of the prisoners, saying that he would 'see no one on this business.'

"He closed his door, his ears, and his heart against every appeal for mercy in her behalf, and hurried this hapless woman almost unshrived to the gallows."

What a picture is this!

The minion of Stanton, the colleague of Bingham, the tutor of Weichman, the tutor of Lloyd, the procurer of the death-warrant, weeping over the empty grave in the Arsenal, which, after his master's relentless watch was over, had at length given up its dead!

Here we are forced to stop. After such an exhibition, we can linger no longer over this miserable scramble to shirk responsibility. Its only consequence of historic importance, after all, is the light it casts upon the memory of the sacrificial victim. Out of the cloud of mutual vituperation, which covers the men who, among them, somehow, compassed her slaughter, her innocence rises clearer and clearer, like the images of retribution from the foul fumes of the witches' cauldron.

Her vindication must be held to be final, complete and unassailable, when John A. Bingham is anxious to acquaint the country that he drafted a petition to save her life; when J. Holt pretends to weep for her; when Andrew Johnson is forced, by the inexorable pressure of events, to confess that when he signed her death-warrant he knew not what he did.

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As we let fall the curtain at the close of this dark and shameful tragedy, let us endeavor to anticipate the verdict of history.

The execution of Mary E. Surratt is the foulest blot on the history of the

United States of America.

It was a violation of the most sacred provisions of that Constitution, whose enforcement was the vaunted purpose of the War.

It was a violation of the fundamental forms and principles of criminal jurisprudence, centuries older than the Constitution.

It was a violation of that even-handed justice, which is said to rule in the armies of Heaven and among the inhabitants of the earth.

It was a violation of those chivalrous impulses which spring unbidden to the manly breast in the presence of woman.

It was a violation of the benign precepts of Jesus, which enjoin tenderness to the fatherless and the widow.

It was a violation of the magnanimity of the brave soldier, which scorns to wound the weak, the fallen and the helpless.

It was a violation of even the common instincts of fairness, which subsist, as a matter of course, between man and man.

It was unconstitutional. It was illegal. It was unjust. It was inhumane.

It was unholy. It was pusillanimous. It was mean. And it was each and all of these in the highest or lowest degree. It resembles the acts of savages, and not the deeds of civilized men.

The annals of modern times will be searched in vain to furnish its parallel. Execrations rise to our lips, as we read, in the pages of Macaulay, of the hanging of Alice Lisle, and the burning of Elizabeth Gaunt. But Alice Lisle and Elizabeth Gaunt were indicted by grand juries, tried by petit juries, found guilty, and sentenced, in strict accordance with criminal procedure. The forms of law, which the bigoted James, and even the infamous Jeffrey, were careful to observe, were swept aside by Holt and Bingham and Stanton, with a sneer.

We turn aside with sickening horror from the recital of the murderous orgies of the Terrorists of the French Revolution--shedding the blood of the young, the tender, the beautiful, the brave. But the Terrorists of France could plead the excuse, that they were driven to madness by the thought, that the invading hosts, encompassing the new-born Republic, were drawing nearer and nearer, every hour, with vengeance and counter-revolution perched upon their banners; and a merciful destiny granted them the grace to expiate their bloody deeds on the same scaffold as their victims.

But, in the case of Mary E. Surratt, not a single redeeming feature relieves

"The deep damnation of her taking off."

Alas! Alas! Right in the centre of the glory which beams from the triumph of the Union and Emancipation, there hangs a dark figure--casting an

eclipsing shadow--ever widening--ever deepening--in the eyes of all the coming generations of the just.