

The Conspiracy to Implicate the Confederate Leaders in Lincoln's Assassination

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The news of President Lincoln's assassination came as a terrific blow to the people of the North just as they were celebrating General Lee's surrender and the approaching end of civil strife. Rejoicing was quickly replaced by grief, and the nation's mourning became almost hysterical in its intensity. In this moment of national calamity and public confusion, as Andrew Johnson succeeded to the presidency, Secretary of War Edwin M. Stanton promptly appointed himself as Johnson's prime minister and began to direct the affairs of government.¹ Stanton immediately informed the stunned world that Lincoln's assassination had been the outcome of a general plot to murder the President, his cabinet, and leading Union generals. It was engineered, he charged, by Jefferson Davis and other Southern leaders, motivated by a desire to avenge the South and to turn the tide of the war.²

Before those whom he accused could show that Stanton's pronouncement was but an unsupported theory, he set about to prove his contention. To accomplish this end, he made lavish use of the resources of both the men and the money of his powerful office.³

¹ Albert G. Riddle, *Recollections of War Times: Reminiscences of Men and Events in Washington, 1860-1865* (New York, 1895), 332, 341; Frank A. Flower, *Edwin McMasters Stanton, The Autocrat of Rebellion, Emancipation, and Reconstruction* (Akron, 1905), 280 ff.; George Fort Milton, *The Age of Hate; Andrew Johnson and the Radicals* (New York, 1930), 327.

This article is a portion of a more extended study of the subject which will also deal with other phases of the question that could not, because of space limitations, be included here.

² Edwin M. Stanton to Charles F. Adams, April 15, 1865, *The War of the Rebellion; A Compilation of the Official Records of the Union and Confederate Armies*, 130 vols. (Washington, 1880-1901), Ser. I, Vol. XLVI, Pt. III, 784-85; *Diary of Gideon Welles, Secretary of the Navy under Lincoln and Johnson*, 3 vols. (Boston, 1911), II, 296 n., under entry of April 23, 1865; *Toronto Daily Globe*, May 6, 1865.

³ David M. DeWitt, *The Judicial Murder of Mary E. Surratt* (Baltimore, 1895), 7, 16; Milton, *Age of Hate*, 190, 195. Lafayette C. Baker, the head of Stanton's

Through bribes and offers of rewards, Stanton's assistants were able to assemble a group of persons who seemed willing to perjure themselves to aid the Secretary in achieving his goal. These witnesses and their stories were turned over to the Bureau of Military Justice, so that the evidence could be shaped and molded into a consistent whole for formal presentation to the military court.⁴

Brigadier General Joseph Holt, the judge advocate general and head of the Bureau of Military Justice, was a political ally of long standing of Secretary Stanton. Both had been members of President Buchanan's cabinet, and both had opposed his policy of appeasement. With the accession of the Republican party, both had sacrificed personal convictions in exchange for political office. A man of great mental vigor, Holt was also an astute lawyer; but almost forty years after the war an unnamed contemporary was reported to have said of him: ". . . [He] was the meanest man of his time. He was both unscrupulous and ambitious; and the *smartest* man I ever knew."⁵

Under the Military Law of 1865, Holt and his assistants, as judge advocates, occupied combined but oddly inconsistent positions. They possessed great power, and their positions carried grave responsibilities. It was their duty to prosecute the accused, but at the same time their obligation to assure the defendant a fair trial. It was also their responsibility to determine the law for the trial court. These combined responsibilities may be likened to a state's attorney in a civil court exercising the duties of judge as well as prosecutor.⁶

It did not take Stanton long to convince the President of the course he should pursue. On May 2, 1865, Johnson formally demanded of the War Office that it furnish him with the names of, as well as evidence against, the Southern leaders accused of plotting secret service, testified on May 20, 1867, that in five years' time he had spent "not more than \$400,000." He further added that occasionally he had purchased testimony. "Impeachment of the President," *House Reports*, No. 7, 40 Cong., 1 Sess., 462.

⁴ Joseph Holt to Stanton, December 15, 1866, *Official Records*, Ser. II, Vol. VIII, 977; Benn Pitman, "Reporting Reminiscences of the Assassination Trial," *Phonographic Magazine* (Cincinnati), VII (August, 1893), 302 ff.; George C. Gorham, *Life and Public Services of Edwin M. Stanton*, 2 vols. (Boston, 1899), II, 202.

⁵ Ada Sterling (ed.), *A Belle of the Fifties: Memoirs of Mrs. Clay, of Alabama* (New York, 1904), 338 n.

⁶ Stephen V. Benét, *A Treatise on Military Law and the Practice of Courts-Martial* (5th ed., New York, 1866), 250; "Military and Martial Law," *North American Review* (Boston, New York), CII (April, 1866), 334 ff.; Milton, *Age of Hate*, 199; "Assassination of Lincoln," *House Reports*, No. 104, 39 Cong., 1 Sess., 32.

Lincoln's murder. In support of Stanton's accusations, Holt promptly presented to the Chief Executive, in oral form, the stories of Richard Montgomery and Dr. James B. Merritt, two informers in the employ of the War Office.⁷ Although these statements had neither been made under oath nor reduced to writing, Johnson, apparently convinced by this hearsay evidence, immediately issued a proclamation which "startled the whole continent" by announcing that

. . . it appears from evidence in the Bureau of Military Justice that the atrocious murder of the late President . . . and the attempted assassination of the . . . Secretary of State, were incited, concerted and procured by and between Jefferson Davis . . . and Jacob Thompson, Clement C. Clay, Beverly Tucker, George N. Sanders, William C. Cleary, and other rebels and traitors . . . harbored in Canada.

He thereupon offered \$100,000 reward for the capture of Davis and \$25,000 for the apprehension of each of the others except Cleary, the reward for his arrest being fixed at \$10,000.⁸

The response of Thompson, Cleary, Sanders, and Tucker, who were still in Canada, was immediate. They publicly denied the charges and stated that if they felt they would be accorded a fair trial they would not hesitate to face their accusers.⁹ Although Stanton, on May 10, knew the whereabouts in Canada of Tucker, Sanders, and Cleary and had received an offer of aid in having them arrested, he took no steps to secure their apprehension.¹⁰ On the same day, Davis, having no knowledge of the recent turn of

⁷ Holt to Stanton, December 15, 1866, *Official Records*, Ser. II, Vol. VIII, 976-77; *Welles Diary*, II, 296 n. (April 23, 1865), 299-300 (May 2, 1865). For further information on Montgomery and Merritt and on the testimony of other witnesses, see T. B. Peterson and Bros. (pub.), *The Trial of the Assassins and Conspirators at Washington City, D. C., May and June, 1865* (Philadelphia, 1865), 38, 41-45, 94, 104, 111-14, 132 ff., 152, 155-56, 171-73.

⁸ *Official Records*, Ser. I, Vol. XLIX, Pt. II, 566-67. See also Toronto *Daily Globe*, May 4, 20, 1865, and Benjamin P. Poore, *The Conspiracy Trial*, 3 vols. (Boston, 1865), I, 7. The New York *World*, May 6, 1865, quotes Montreal *Telegraph*: "That the federal government may have obtained such information is quite probable, and it is only necessary for it to intimate a desire to have Queen Victoria, the Pope, and the Khan of Tartary involved in the same charge to get that evidence also; but we do not believe that there is a word of truth in the assertion. It has no doubt been trumped up with the double object of affording an excuse for the murdering of President Davis if caught, and firing the northern heart against Canada."

⁹ George N. Sanders, Beverley Tucker, and William C. Cleary to Andrew Johnson, May 4, 5, 1865, New York *World*, May 8, 1865; Jacob Thompson to Horace Greeley, May 10, 1865, *ibid.*, May 23, 1865. See also Toronto *Daily Globe*, May 5, 6, 8, 1865.

¹⁰ B. Devlin to Stanton, May 10, 1865, and Stanton's reply, May 11, 1865 (telegrams), *Official Records*, Ser. II, Vol. VIII, 549, 552.

events, was captured. On May 11, Clay, being informed of Johnson's proclamation, voluntarily surrendered to Federal military authorities.¹¹ But instead of rushing these two prisoners to Washington to stand trial, Stanton directed that they be taken to Fortress Monroe where they were to be held in strict solitary confinement without being arraigned or charged and without having their bail fixed or denied.¹²

Meanwhile, the identity of John Wilkes Booth as the slayer of Lincoln had been established. He had been killed, and David E. Herold, his companion on his flight for freedom, had been seized. Lewis Payne, already in custody, had been identified as the assailant of Secretary William H. Seward and his son, Frederick. George B. Atzerodt, Michael O'Laughlin, and Samuel Arnold, followers of Booth and co-conspirators with him and Herold in the abortive attempt to kidnap the late President, had been apprehended. John H. Surratt, another member of the ring of conspirators, was still at liberty; but his mother, Mary E. Surratt, was in military custody. Dr. Samuel A. Mudd, the physician who had rendered medical services to Booth after the murder, and Edward Spangler, an employee at Ford's Theatre, were also in military custody. These persons, all military prisoners, were now charged with being direct participants with Booth in planning and consummating Lincoln's murder.¹³

On May 1, 1865, the President had ordered the setting up of a military court at Washington to try the eight accused then in custody. On the day Davis was captured, this tribunal held its first session. It commenced hearing evidence on May 12, and in the course of the trial it permitted the introduction of evidence of an indiscriminate nature directed at implicating Davis and members of his "Canadian cabinet"¹⁴ in the assassination plot. The tribunal rendered its verdict on July 5. It found the eight defendants guilty of being co-conspirators with Davis and the others named in John-

¹¹ *Welles Diary*, II, 306 (May 13, 14, 1865). See also Clement C. Clay, Jr. to Johnson, November 23, 1865, and Stanton to Johnson, January 4, 1866, *Official Records*, Ser. II, Vol. VIII, 812, 843.

¹² Stanton to Henry W. Halleck, May 19, 1865, Charles A. Dana to Stanton, May 22, 1865, and Halleck's "Regulations," May 22, 1865, *Official Records*, Ser. II, Vol. VIII, 559, 563-65.

¹³ *Ibid.*, 696-98.

¹⁴ The term "Canadian cabinet" was first applied to Confederate agents and representatives in Canada; after Lincoln's death, it commonly designated those in Canada who had been charged as being parties to the murder plot.

son's proclamation in a premeditated conspiracy to murder Lincoln and other Northern leaders. It sentenced Payne, Atzerodt, Herold, and Mrs. Surratt to be hanged and sentenced Arnold, O'Laughlin, and Dr. Mudd to prison for life. Spangler received a sentence of six years. The President approved the sentences and they were carried out within twenty-four hours of their publication.¹⁶

The military tribunal, by the form of its verdict, indirectly sustained the President's indictment of May 2 charging the Southerners with being implicated in the murder plot.¹⁶ This *ex parte* condemnation of the Confederate President and the members of his "Canadian cabinet" added impetus to the demand that Davis and Clay be tried and punished. The prisoners and their friends also pressed for an early trial. President Johnson, convinced by Stanton of the truth of the charges, was eager to punish the supposed culprits. He, too, urged a prompt hearing.¹⁷

The united and persistent demands of these strange bedfellows placed Stanton and Holt in a quandary. A trial would apparently result in the acquittal of Davis and Clay, since there was no reliable evidence linking these Southerners with the plot that had resulted in Lincoln's murder. In the trial before the military tribunal the prosecution had attempted to establish this complicity primarily by the testimony of three witnesses. This attempt had failed despite the fact that the military court, by its verdict, had indicated otherwise.

The three witnesses were Richard Montgomery, Dr. James B. Merritt, and Sanford Conover. By his own admissions, each had done much to discredit his story and to impeach his personal credibility.¹⁸ Holt knew that their stories would not stand public scruti-

¹⁵ *Official Records*, Ser. II, Vol. VIII, 698-700.

¹⁶ Holt later insisted that the verdict of the military commission established the guilt of Davis and the members of his Canadian cabinet. *Ibid.*, 848, 856, 978. For a similar opinion, expressed by a member of the military commission, see Thomas M. Harris, *Assassination of Lincoln: A History of the Great Conspiracy* (Boston, 1892), 175, 211.

¹⁷ *Cong. Globe*, 39 Cong., 1 Sess., Pt. I, 70, 100, 115, 226, 482, 566, 775, Pt. II, 1854-55, Pt. III, 2120, 2282-85, Part IV, 3089; Sterling (ed.), *Belle of the Fifties*, 309 ff., 319 ff.; Clay to Johnson, November 23, 1865, *Official Records*, Ser. II, Vol. VIII, 812; Johnson to the Senate, January 5, 1866, *ibid.*, 843-44; William H. Seward's testimony, "Impeachment of the President," *House Reports*, No. 7, 40 Cong., 1 Sess., 379-80; *Welles Diary*, II, 335 (July 18, 1865), 337 (July 21, 1865), 368 (August 29, 1865).

¹⁸ See especially *New York World*, June 2, 12, 13, 19, 1865, and *New York Tribune*, June 5, 6, 7, 8, 1865. Records of the court proceedings were published in Benn Pitman, *The Assassination of President Lincoln and the Trial of the Conspirators* (New York, 1865), Poore, *The Conspiracy Trial*, and Peterson (pub.), *The Trial of*

ny and tried to keep their testimony secret. This endeavor had failed. In violation of his oath, Benn Pitman, the court reporter, had released part of Conover's evidence to the press.¹⁹ Its appearance in print had caused a sensation and had left the prosecution with no alternative but to show that it was corroborated by the testimony of others. The entire evidence of the three was therefore given to the newspapers.²⁰

In early June, this suppressed evidence appeared in the leading American and Canadian papers. Bitter denunciations, indignant denials, and angry countercharges followed. The witnesses had alleged that most of the plotting had occurred in Toronto and Montreal. The newspapers in both cities were swamped with letters and statements, all tending to establish that Montgomery, Merritt, and Conover were men of poor reputation and that their testimony was false.²¹ New information disclosed that Clay was not in Canada in 1865 and that Thompson was absent from Montreal throughout January and the first half of February, thereby definitely establishing that the witnesses had lied when they had testified to having had discussions, in those places at that time, with Thompson or Clay in reference to the assassination plans.²²

The prosecution's star witness was Sanford Conover, *alias* James Watson Wallace. Conover's true name was Charles A. Dunham, and in 1865 he was twenty-eight years old and a lawyer by profession.²³ Unscrupulously, he did not hesitate to incriminate innocent persons without regard to the penalty they would have to pay if found guilty as a result of his apparently perjurious testimony. Fortunately for those accused, however, he did not appreciate his own limitations and lack of consistency. He testified that while

the Assassins and Conspirators. Conover is also discussed throughout "Assassination of Lincoln," *House Reports*, No. 104, 39 Cong., 1 Sess., 33 ff.

¹⁹ *New York Tribune*, June 7, 1865; *Toronto Daily Globe*, June 7, 1865; "Assassination of Lincoln," *House Reports*, No. 104, 39 Cong., 1 Sess., 32.

²⁰ *New York World*, June 5, 1865, citing *Cincinnati Commercial*, June 2, 1865; *New York Tribune*, June 8, 1865. See also other major papers in Northern states and Canada for this and subsequent dates.

²¹ In addition to the newspapers cited in n. 18, see *Montreal Gazette*, June 16, 1865, and *Toronto Daily Globe*, June 7, 8, 9, 24, 1865.

²² Sterling (ed.), *Belle of the Fifties*, 241, 324 n.; *Official Records*, Ser. II, Vol. VIII, 812. Montgomery testified that Clay left Canada "about the first of January," 1865. Peterson (pub.), *Trial of the Assassins and Conspirators*, 155. Clay's absence from Canada in 1865 was also stressed during the St. Albans trials. L. N. Benjamin (comp.), *The St. Albans Raid* (Boston, 1865), 210-11, 213, 295, 334, 394.

²³ *Official Records*, Ser. II, Vol. VIII, 922. For Conover's testimony see Peterson (pub.), *Trial of the Assassins and Conspirators*, 137 ff., 172 ff.

temporarily residing near Columbia, South Carolina, he had been conscripted into the Confederate army and assigned as a war office clerk at Richmond. In December, 1863, he had "escaped" north to his native New York. From there, he had gone on to Washington. While in the capital, he had secured employment as a correspondent with the *New York Tribune*, receiving no fixed salary and being compensated only for articles accepted. He testified that he was not a paid spy for the North, and that his only source of income was from the *Tribune*. He informed the court that in October, 1864, he had gone to Montreal as a reporter for the *New York* newspaper. There, concealing his position and using the name of James Watson Wallace, he had posed as a Southerner. He asserted that he had gained the confidence of Thompson and his Southern associates and had been freely admitted to their meetings. Here he had acquired first-hand knowledge not only of the assassination plot but of many schemes for sabotage, including the plan to blow up New York City's Croton Dam. All of these schemes had been discussed and some of them, he averred, had been approved by Thompson and his associates.

Conover maintained that in an interview with Thompson late in January or early in February, 1865, at Montreal (a time when Thompson is known to have been absent from that city), the latter invited him to become one of the assassins, assuring him that the plans would be approved by official Richmond. He also testified that he was present in Thompson's room in Montreal in early April when Surratt delivered a letter from Jefferson Davis, which was said to contain that approval. He further related that prior to Lincoln's death he had seen Booth in Montreal in company with Thompson and Sanders and that Thompson had confided that Booth had been commissioned in the Confederate army to defeat any attempt at his extradition should he reach Canada after he had killed Lincoln.

Conover startled the court by admitting that he had knowledge of the assassination plans long before Lincoln's murder. He testified and later reaffirmed that he had passed this information on to the *Tribune* by letters in February, and again in March, 1865, with a request that the newspaper inform the Federal authorities. Because of its sensational nature, the *Tribune* had refused to pub-

lish his story, but Conover had assumed that the information had been relayed to the proper authorities.²⁴

At the request of Thompson, Conover continued, he had testified in Montreal on February 11, 1865, on behalf of the Confederate soldiers who had raided St. Albans, Vermont, on October 19, 1864. The Southerners succeeded in escaping to Canada where they were arrested and held for extradition on the demand of the United States government. The Confederate government contested the demand on the grounds that the raiders were regular soldiers of a sovereign belligerent and were not subject to extradition. To maintain this defense, it was necessary to prove that the raiders were Confederate soldiers on a mission of war.

Conover informed the court that his testimony at Montreal had been limited to identifying the signature of James A. Seddon, the Confederate secretary of war, on military commissions issued to the leaders of the raiders. He neglected to inform the court, however, that he had further testified at Montreal that he was a native of Virginia (instead of New York), and that he had resided in his own home until it was burned down by Federal soldiers. According to his Canadian testimony (not repeated at Washington), he had been commissioned as a major in the Confederate army and authorized to raise a battalion. Through an accident, he had become incapacitated and was later kidnapped by Northerners. He finally left Richmond in October, 1864.²⁵ All of this was in direct contradiction to his sworn testimony before the military court. Conover finished testifying on May 22, and shortly thereafter left Washington.

"James Watson Wallace" reappeared in Montreal early in June, 1865, about the time that Sanford Conover's Washington testimony was printed in the Montreal newspapers. Wallace, confronted by the problem created by its publication, set about to extricate himself. He had William H. Kerr, attorney for the St. Albans raiders, prepare a statement which he signed under oath on June 8, 1865. As Wallace, he now swore that his entire Montreal testimony given on page 212 of the official report of the St. Albans trial

²⁴ New York *Tribune*, June 5, 6, 1865; New York *Herald*, June 13, 1865; New York *World*, June 19, 1865, quoting Montreal *Telegraph* of June 16.

²⁵ Benjamin (comp.), *The St. Albans Raid*, 212. It is of interest to note that on February 11, 1865, the day Conover testified in Montreal, he was preceded and followed on the witness stand by William C. Cleary and George N. Sanders, both of whom testified that Clay had left Canada by December, 1864. *Ibid.*, 210-11, 213.

was the truth; that he, Wallace, had never used the name of Conover; that he had never testified in Washington; that he had never been in the employ of the *New York Tribune*. He charged that Conover had impersonated him at Washington, and had testified falsely. He added that he was not an intimate of Thompson and his Southern associates and that he knew these Confederate officials but slightly. He denied having had the conversations which Conover had claimed to have had with them and added that he had not personally known John Wilkes Booth and had never seen him in Montreal.²⁶

Wallace's affidavit appeared in the *Montreal Telegraph* on June 10, together with two unique offers. If President Johnson would grant him a safe conduct to and from Washington, he volunteered to appear before the military court and thereby prove he was not Conover. Secondly, he offered a reward of \$500 for the capture of Conover — "the infamous and perjured scoundrel who recently personated me . . . and deposed to a tissue of falsehoods before the military commission at Washington" — so that he could be brought to justice immediately. This statement and the offers were reprinted in the *New York World* on June 13, while Wallace was still in Montreal. Three days later, on June 16, the *Montreal Telegraph* had further news for its readers: James Watson Wallace was lodged in the city's jail, charged with being a common loafer. The news item added:

We hear he now confesses he is Sanford Conover, and wishes to disclose how and by what means he was induced to go to Washington at the instance of Federal pimps for perjury, but that Southerners here scorn to go near him to receive his disclosures.²⁷

On June 27, Conover, out of jail through the intercession of General John A. Dix, acting for the War Office, was again in Washington. The prosecution's closing remarks were delayed so that Conover could tell the military tribunal what really had happened during his recent junket to Montreal. Holt read to the court the affidavit of Wallace, together with his two offers. Thereupon, Conover declared that Wallace's affidavit was false and that his offers were not intended seriously. He added that he had been compelled at the point of a pistol to sign the affidavit and the offers, and that he had

²⁶ Peterson (pub.), *Trial of the Assassins and Conspirators*, 172-73; *New York World*, June 13, 1865.

²⁷ *New York World*, June 19, 1865.

been kidnapped from a saloon in Montreal "by a dozen rebels," who threatened his life if he refused to accede to their demands. He stated that the attorney, Kerr, should have known this as he was present when the threats were made.

Conover added that his Montreal testimony of February 11 had been confused with the stories of other St. Albans witnesses, and that the official St. Albans proceedings were incorrect. Holt then read Wallace's testimony as quoted in a contemporary newspaper article. This clipping, Conover stated, was taken from a Montreal newspaper. He declared that his statement, as set forth in this news item, was "substantially" what he had testified to on February 11. The article made no mention of any testimony except that given in affirmance of Seddon's signature on the military commissions. Holt, however, neglected to advise the tribunal that Conover's Montreal testimony — following Canadian procedure — had been reduced to writing and signed by the witness before it had been made a part of the official St. Albans record. Conover, in turn, neglected to explain why, if an error had been made in the transcription, he had not disavowed the statement when it was brought before the Canadian court.²⁸

Conover further informed the court that he had made his recent trip to Montreal at the request of the judge advocate general, who, he said, had sent him there to secure an official copy of the St. Albans record. Why Holt, with the facilities of the powerful War Office at his command, had sent a comparative stranger on a long journey to Canada to secure such record, when it could have been secured in less time by telegraphing a government employee in Montreal to forward it, is difficult to understand.

As a fitting climax to this phase of the story, the strongly pro-Northern Toronto *Globe*, on July 7, 1865, published the initial letter of Wallace, *alias* Conover, to Thompson, by which the writer sought acquaintance with the Southern official. This letter was dated March 20, 1865, long after the intimate conversations this witness claimed to have had with Thompson, whom it now turned out he had not then even known. In this communication, as his contribution to the Southern cause, he proposed his own plan of

²⁸ Benjamin (comp.), *The St. Albans Raid*, 212. See also Stuart Robinson, *Infamous Perjuries of the "Bureau of Military Justice" Exposed*, a pamphlet printed in Canada in 1865, for a detailed discussion of the inconsistencies in Conover's testimony.

sabotage: namely, to blow up the Croton Dam. When Thompson received the letter, he asked the bearer if Wallace was either mad or a fool.²⁹ Four days later, the *Globe* further advised its readers that the United States consul in Montreal had certified that the letter was in Conover's own handwriting.³⁰

It is very clear that by the end of July, 1865, Conover was a thoroughly discredited person. It is also clear that the charges against Davis and Clay were without merit and the prosecution was in a dilemma. It could not permit Davis and Clay to be tried, for a trial evidently would result in the prisoners' acquittal. On the other hand, the Radical Republicans could not drop the charges and release Davis and Clay, for their political control of the government depended upon a continuation of the antagonism between the North and the South. Any other course would result in a political coalition easily able to outvote them in a general election. The hatred engendered by Lincoln's murder had to be kept alive. To admit that the Southerners were not implicated in the assassination might also cause a revulsion of public opinion that would end the political careers of those who had imposed upon the people in their moment of great grief.

Even worse, the Secretary of War could not permit the situation to remain in the existing state, for eventually Davis and Clay would have to be released or tried. Stanton and Holt could not but appreciate that irrespective of the course they pursued, in the end there might well be a public scandal, followed by an official investigation; that a probe would reveal that there never was a basis for their accusations; that enormous sums of public money had been needlessly and foolishly expended; that the government had been pledged to pay large rewards without a justification for their offer; and that the people had been imposed upon and the nation misled.³¹ It was imperative that further evidence, irrespective of its

²⁹ *Toronto Daily Globe*, July 7, 1865; *New York World*, July 10, 1865, quoting *Toronto Daily Globe*; Robinson, *Infamous Perjuries of the "Bureau of Military Justice" Exposed*, appendix.

³⁰ *Toronto Daily Globe*, July 11, 1865.

³¹ In presenting a minority report at the end of the congressional investigation which followed, Representative Andrew J. Rogers quoted the following from the testimony of William A. Campbell, one of the witnesses: "I was informed by Conover that Judge Holt had offered a reward of one hundred thousand dollars for the capture of Jefferson Davis — that he, Holt, had no authority really to do it. That, now Jefferson Davis was taken, they had not enough against him to justify them in what they had done; that Judge Holt wanted to get witnesses to prove that Davis was

final worth, be secured. This would not only justify the retention of the prisoners, but in the event of exposure Stanton and Holt could be made to appear as innocent victims of unscrupulous promoters rather than as originators of a gigantic fraud.

Stanton and Holt probably concluded that Conover was the best person to produce this evidence, as well as the most logical one on whom to place the complete responsibility for the fraud. They could readily show that he was a proven liar in his own right and that he had originally secured Montgomery, Merritt, and other witnesses in the attempt to implicate Davis and the members of his "Canadian cabinet" in the plot that resulted in Lincoln's assassination.³² In August, 1865, Conover was employed by the War Office to secure further evidence implicating the Confederate leaders in the assassination plot. Holt stated that he had not solicited the re-employment of "this paragon of veracity," but that Conover had requested an interview after the trial had ended, and had claimed to have discovered further evidence, supported by written documents, implicating the Southern leaders in Lincoln's murder. He had promised, Holt said, "to find at least three witnesses — men of unimpeachable character — who will testify that they submitted to Davis propositions, which he approved," to murder Lincoln and members of his cabinet. After receiving a second request from Conover, dated August 2, 1865, Holt took the matter up with Stanton and they agreed that he should give Conover a hearing. Following the interview, he again discussed the matter with Stanton and it was agreed that Conover should be employed.³³ Holt then attempted to justify Conover's re-employment by stating:

There was nothing in the previous history of Sanford Conover, as known to me, to excite any distrust, either in his integrity, in his truthfulness, or in the sincerity with which he had made his propositions to the Government, that led to his being employed. . . . On the contrary, there was much in his intelligence which was marked and striking, and in his apparent

interested in the assassination of Mr. Lincoln, so as to justify him in paying the \$100,000. . . . Conover told me that if I engaged in it, it was not going to hurt anybody; that Jeff Davis would never be brought to trial, and that if this evidence got to him he would leave the country." "Assassination of Lincoln," *House Reports*, No. 104, 39 Cong., 1 Sess., 37-38.

³² *Ibid.*, 39.

³³ Holt to Stanton, July 3, 1866, *Official Records*, Ser. II, Vol. VIII, 933; *Vindication of Judge Advocate General Holt, from the Foul Slanders of Traitors, Their Aiders, Abettors, and Sympathizers, Acting in the Interest of Jefferson Davis* (2nd ed., Washington, 1866), 5.

frankness and his known connection with important sources of information, to inspire faith in his professions and promises.³⁴

Conover now worked out an elaborate system of preparing and presenting his witnesses. When he secured a person willing to become a paid accomplice, Conover wrote out the questions that were to be asked of the witness and the answers he was to give. As one witness later testified, Conover knew the questions that Holt would ask. After he was sufficiently rehearsed and his procurer satisfied with his performance, the witness would be brought to the War Office, where Holt would take his deposition. The judge advocate general was the only person who took the statements of Conover's witnesses. Conover would be present while the questions were being asked and if the informant erred, he would, by prearranged signal, inform him of his mistake. Then the witness, in turn, would amend his replies as he continued making his deposition.³⁵ In all, Conover produced eight persons, six men and two women, whose statements were reduced to sworn depositions.

In turn, Holt also seems to have adopted a stereotype method of handling these witnesses. He restricted his examination, making no effort to secure information of the witnesses' background or previous history, or to acquire any other facts that would permit an independent judgment of the truth of the statements made.³⁶ The reason for the elaborate preparation of these witnesses by Conover and their restricted examination by Holt is more readily understood if the menial occupations of the witnesses are any indication of their training, experience, and position.³⁷

³⁴ *Official Records*, Ser. II, Vol. VIII, 942; *Vindication of Judge Advocate General Holt* (2nd ed.), 6. Contrast Holt's evaluation of Conover with Rogers': "Let it be recollected that Conover's own exposition of his perjuries was made in Canada during the trial, and then how are we to account for this man's not only being left at large, but being sent as a competent witness to testify before a judiciary committee of this House, and this testimony, already disproved, accompanied by an argument from Judge Holt shaped to induce a belief in it?" "Assassination of Lincoln," *House Reports*, No. 104, 39 Cong., 1 Sess., 37.

³⁵ Depositions of Joseph A. Hoare, *alias* William A. Campbell, and William H. Roberts, *alias* Joseph Snevel, October 18, 1866, *Vindication of Judge Advocate General Holt* (2nd ed.), 10, 12; "Assassination of Lincoln," *House Reports*, No. 104, 39 Cong., 1 Sess., 38-39; Levi C. Turner to the Judiciary Committee of House of Representatives, June 2, 1866, *Official Records*, Ser. II, Vol. VIII, 923; *New York Herald*, February 10, 1867.

³⁶ Holt originally asserted that the reliability of Conover's witnesses had been established by "severe tests." Holt to Stanton, December 6, 1865, *Official Records*, Ser. II, Vol. VIII, 860; and for repeated assertions that they were reliable, see *ibid.*, 851, 854, 856, 857, 890, 942.

³⁷ Turner to Judiciary Committee, June 2, 1866, *ibid.*, 922.

Conover produced his first witness on August 17, 1865. He was John McGill (true name Neally), a licensed peddler in New York City. The next day, when Stanton read McGill's deposition at a cabinet meeting, Secretary of the Navy Gideon Welles thought that the story, "... though plausibly got up, was chiefly humbug."³⁸

The next two witnesses were produced on November 4. The first was William A. Campbell (real name Joseph A. Hoare), a gas fixer by trade, employed in New York City. The other, Joseph Snelvel (true name William H. Roberts), was formerly a ticket agent on the Harlem Railroad and later a tavern keeper in Yonkers. Neither of these men had been south of Washington in their lives; yet both swore to conversations at which they had been present in Richmond in late March, 1865, between John H. Surratt and Jefferson Davis. They swore that Davis, to whom they had just been introduced by Surratt, openly expressed his personal approval of the intended murder of Lincoln—an avowal presumably prompted by the assumption that Campbell and Snelvel were to be two of the assassins. At this time, they added, Davis gave Surratt the letter which Conover had testified to having seen delivered to Thompson early in April, 1865, at Montreal.³⁹ After making their depositions before the Bureau of Military Justice, Campbell and possibly Snelvel were received by President Johnson, the secretary of state, and the secretary of war in a private conference where the details of their evidence were affably discussed.⁴⁰

Conover's fourth witness, Farnum B. Wright (correct name John Waters), employee in a brickyard near Cold Springs, on Long Island, made his statement on November 23, 1865. Wright, who also had never been south of Washington, swore that earlier in the war he had been employed as a detective in Richmond by General John H. Winder, who was now dead, and that Winder had confided to him that a plot had been perfected to kidnap and, if necessary, kill Lincoln. He further swore that in the summer of 1863

³⁸ *Welles Diary*, II, 363 (August 18, 1865).

³⁹ The complete depositions of Campbell and Snelvel are not to be found in the *Official Records*. Holt quotes from them in Holt to Stanton, January 18, 1866, *Official Records*, Ser. II, Vol. VIII, 853-54.

⁴⁰ Deposition of Joseph A. Hoare, *alias* William A. Campbell, October 18, 1866, *Vindication of Judge Advocate General Holt* (2nd ed.), 12. Seward stated that he had examined one or two witnesses in Johnson's presence. "Impeachment of the President," *House Reports*, No. 7, 40 Cong., 1 Sess., 380.

he was present at a conference in which President Davis and General Winder had urged three persons named Patten, Lamar, and Powell, who were said to be the executive managers of the plot, to make haste in carrying out their plans. Of these three "managers," Lamar and Powell were not further identified; but Wright stated that Patten was then in St. Louis and was willing to reveal what he knew unless Davis' friends carried out their promises to reimburse him for the financial losses that he had suffered as a result of the failure of the kidnapping plans.⁴¹ In due time Conover produced one John H. Patten, formerly a justice of the peace at Nyack, New York, where he was known as Peter Stevens; and on February 24, 1866, Holt received a sworn statement from Patten in support of Wright's testimony.⁴²

In the meantime Holt also began to proceed independently of Conover by having the War Office, on January 18, 1866, secure the affidavits of four persons who alleged that they had seen Clay in Canada in 1865 — when it is known that he was not there; and to these were added, on February 1 and 2, the affidavits of three other persons to the same effect.⁴³ But Conover, anxious not to be outdone, produced two more witnesses on February 6. The first of these was his own wife, who testified that in November, 1864, at her home in Toronto, she, as Mrs. Sarah Douglass, had a private conversation with Clay in which he justified the intended murder of the late President. The second witness, identified as Mary Knapp, spinster (who turned out to be Mrs. Charles Smythe, Conover's sister-in-law), swore that she had overheard that conversation.⁴⁴

Conover's next witness, William H. Carter, whose correct name and antecedents are unknown, but who was apparently employed in the quartermaster's office at Baltimore as late as April, 1866, added his statement to the mounting evidence on February 9, 1866. His affidavit supported the deposition of John McGill, who had been the first of Conover's witnesses to testify.⁴⁵ McGill and Carter

⁴¹ Deposition of Farnum B. Wright, November 23, 1865, *Official Records*, Ser. II, Vol. VIII, 815-16.

⁴² Deposition of John H. Patten, February 24, 1866, *ibid.*, 883-85.

⁴³ For these depositions see *ibid.*, 867-69, 876-77.

⁴⁴ Depositions of Sarah Douglass and Mary Knapp, February 6, 1866, *ibid.*, 878-79.

⁴⁵ Deposition of William H. Carter, February 9, 1866, *ibid.*, 879-80. The deposition of John McGill, made on August 17, 1865, was not published, but Holt quoted portions of it in Holt to Stanton, December 6, 1865, *ibid.*, 857.

stated that on the recommendation of Captain Robert C. Kennedy, the Confederate agent who sought to burn New York,⁴⁶ they had been employed by Clay to be two of the assassins. They took the job with the understanding that upon their return to Canada they were to receive \$5,000 each for their labors, if successful. They were hired in November, 1864, they said, and Clay gave each \$10.00 to cover expenses while they waited; but a short while later they were told by Kennedy that their services would not be required because the assignment had been placed in more competent hands in Washington.

In spite of the fact that the Bureau of Military Justice was busily engaged in amassing this vast array of what Holt asserted to be *prima facie* evidence, Stanton, on October 13, 1865, refused to request the extradition of John H. Surratt from England; and on November 24 he withdrew the offer of rewards for the capture of Surratt, Thompson, Tucker, Cleary, and Sanders, who were still at large.⁴⁷

Meanwhile, a rumor had been spread that President Johnson was deliberately delaying the trial of Davis and Clay to aid them to escape punishment. Radical Republicans in Congress, intent upon embarrassing the President, aided by Democrats desirous of embarrassing the radicals, commenced a movement for a congressional investigation. On January 10, 1866, the House requested the President "to communicate to the House any reports made by the Judge Advocate General . . . as to the grounds, facts, or accusations upon which Jefferson Davis . . . [is] held in confinement." After consulting Stanton and Attorney General James Speed, Johnson replied on February 9 that "the publication of the papers called for by the resolution is not at the present time compatible with the public interest."⁴⁸ This denial of its request was, of course, un-

⁴⁶ Captain Robert C. Kennedy was found guilty of being a spy and of participating in the attempted destruction of New York City by fire. He was executed on March 25, 1865. *Ibid.*, 414-16.

⁴⁷ For Stanton's explanation of the withdrawal of the offers, see "John H. Surratt," *House Reports*, No. 33, 39 Cong., 2 Sess., 3. This document and two others bearing the same title, designated as *House Executive Documents*, Nos. 9 and 25, 39 Cong., 2 Sess., contain the correspondence and discussions concerning the question of Surratt's extradition. For the withdrawal see *Official Records*, Ser. I, Vol. XLIX, Pt. II, 1116.

⁴⁸ *Cong. Globe*, 39 Cong., 1 Sess., Pt. I, 172, 775. In advising against compliance, Attorney General James Speed said: "Most of the evidence upon which they are based was obtained *ex parte*, without notice to the accused, and while they were in close custody as military prisoners. Their publication might wrong the Government or

satisfactory to the House, and on April 9 it voted to instruct its Committee on the Judiciary to make a thorough investigation of the status of the case against the Southern leaders. When the chairman of that committee formally demanded, on April 17, that the War Office furnish it with all the evidence on hand,⁴⁹ Stanton evinced little concern. The Committee was under the control of his friends and henchmen, and he expected from it an approval of the conduct of his office. But he reckoned without Representative Andrew J. Rogers, a Democrat from New Jersey, who by his cross-examination did much to expose the fraud, and whose minority report preserved for posterity the true facts of the case.

Holt complied promptly with the Committee's request by supplying a statement of the evidence in the possession of the Bureau of Military Justice. This consisted of the testimony of the witnesses who had attempted to incriminate the Southerners in Lincoln's murder during the conspiracy trial, together with copies of the affidavits and depositions of the eight new Conover witnesses who had not as yet appeared before a court. In submitting this material Holt accompanied his report with an explanatory argument, on which Rogers later commented as follows:

. . . the sending of such an argument I feel compelled to attribute to a desire to place his [Holt's] own views so before the committee as to render investigation by them a mere matter of form; and I believe this was done to hide the disgraceful fact that the assassination of Mr. Lincoln was seized upon as a pretext to hatch charges against a number of historical personages, to blacken their private character, and afford excuse for their trial through the useless forms of a military commission, and through that ductile instrument of vengeance in the hands of power, murder them.⁵⁰

Holt could readily produce the written statements, but as the investigation proceeded some of the witnesses proved unwilling to support their depositions by falsely testifying before the Judiciary Committee. On April 17, "M" — probably Richard Montgomery, the accused, or both. While I see that much wrong may flow from the publication, I cannot see that any good would come from it." *Ibid.*, 775.

⁴⁹ James F. Wilson to Stanton, April 17, 1866, *Official Records*, Ser. II, Vol. VIII, 898-99. The Committee, composed largely of Radical Republicans, consisted of James F. Wilson (Iowa), chairman, George S. Boutwell (Massachusetts), Francis Thomas (Maryland), Thomas Williams (Pennsylvania), Fred A. Woodbridge (Vermont), Daniel Morris (New York), William Lawrence (Ohio), Berton C. Cook (Illinois), and Andrew J. Rogers (New Jersey).

⁵⁰ "Assassination of Lincoln," *House Reports*, No. 104, 39 Cong., 1 Sess., 36. Rogers' criticism can be best appreciated by reading Holt's communications to Stanton, December 6, 1865, and January 18, 1866. *Official Records*, Ser. II, Vol. VIII, 847-61.

who was still in the employ of the War Office and who later appeared before the Committee and reaffirmed the truth of the perjured testimony he had given in the trial of May, 1865 — wrote to Conover in New York City:

I came in last evening and have been all day endeavoring to find you. That villain Campbell has divulged the whole arrangement to Davis' friends and will, if possible, be pushed before the committee. I have been sent on to assist you in getting him sweet again, so that he will stand by his story, or else keep out of the way. It must be done at any cost. I am prepared with the needful. Old 279 and No. 8 were at headquarters the day before yesterday and are furious. We shall be rewarded if we save their bacon. It must be done. Call the moment you receive this . . . for I can do nothing without you.⁵¹

Ten days later Carter, in Baltimore, wrote to Conover as follows:

I received yesterday morning a letter from Campbell from New York, threatening to go before the Judiciary Committee and expose all that has been devised in the Davis case, and asking me to accompany him, as he and all who will, will get large sums from Jeff's friends for doing so. I started immediately for Washington and saw General Holt, and gave him Campbell's letter. The General assured me that he had known of Campbell's defection for some time, and that you had written the Chairman of the Committee not to examine him, and that he himself had arranged to send a Judge Advocate to New York that evening to see you, with full instructions, and that you would no doubt be able to get the scamp in the traces again, or keep him away and let only such come before the committee as can be relied on. God grant that you can do so!

In order to be of some assistance in the business, I beg leave to introduce to you Mr. Mason, the bearer, of whom you have heard me often speak. He can give you some secrets of Campbell's life, which, if known to the District Attorney, would get him ten years in the State Prison, and you may use them to frighten the traitor into loyalty again. Mason is quite a stranger in New York, and I hope you may get time to show him the elephant.

Excuse paper. It is not yet nine o'clock, and the stationery room is not yet open, and I have not a sheet in my desk. Write me by Mason, on his return, all the particulars.⁵²

⁵¹ New York *Herald*, August 12, 1866. It is probable that "Old 279 and No. 8" refers to Thaddeus Stevens, whose Washington address at the time was 279 South B Street, and Benjamin F. Wade, who lived at No. 8, 4½ Street. *Congressional Directory*, 39 Cong., 1 Sess. No evidence has been found, however, to connect either man directly with the attempts to implicate Davis and Clay in the assassination.

⁵² New York *Herald*, August 24, 1866. This letter was written on the back of a quartermaster's order blank for transportation from Baltimore over the Northern Central Railroad and enclosed in an envelope marked "Official Business, Depot Quartermaster's Office, Baltimore, Maryland."

On April 26, the day before Carter's letter was sent, Holt had written Conover:

This will be presented to you by Colonel [Levi C.] Turner, Judge Advocate, who will communicate with you fully in regard to the business which takes him to New York. The Judiciary Committee of the House of Representatives are anxious to secure at as early a date as possible the attendance of the witnesses named in a list in Colonel Turner's hands, and I write to request that you will at once use all your efforts to secure that result. You probably know the whereabouts of most of them, and through your personal exertions, aided by others, may succeed in bringing these witnesses, or at least the greater part of them, before the committee. I saw Mr. Wilson this morning, who read me your letter, and it is at his instance that I write you, having no doubt but that from the information you have and your past faithfulness you will be both able and willing to do in the interest of truth and public justice what is now required of you.⁵³

It appears that through the efforts of Conover, "aided by others," Campbell was "sweetened." He agreed to stand by his original story. Possibly to make sure that he would not change his mind, Colonel Turner took him in "protective custody" and brought him to Washington where he had a private discussion with Holt and evidently convinced him that he would reaffirm his previous statements.⁵⁴ Conover was then called to Washington and testified on May 8, 1866. He was not asked to repeat his testimony of May 20 and 22, 1865. After it had been read to him, he merely affirmed that it was the truth.⁵⁵ Campbell followed him on the stand and upset the proceedings by admitting that his deposition was false. Conover, he declared, had prepared the statement which he had memorized and repeated to Holt. He readily admitted that he had perjured himself and stated that he had received \$500 from Holt, \$100 from Conover, and an additional \$300 to cover traveling expenses.⁵⁶ Conover promptly swore that Campbell was a liar. In company with a sergeant-at-arms of the Committee, Conover then left for New York to secure the attendance of the other witnesses

⁵³ Quoted in full in Turner to Holt, September 10, 1866, *Official Records*, Ser. II, Vol. VIII, 963; also in *New York Herald*, August 24, 1866.

⁵⁴ For an outline of the details of this episode, see Turner to Judiciary Committee, June 2, 1866, and Turner to Holt, September 10, 1866, *Official Records*, Ser. II, Vol. VIII, 921-23, 962-64.

⁵⁵ "Assassination of Lincoln," *House Reports*, No. 104, 39 Cong., 1 Sess., 33.

⁵⁶ *Ibid.*, 38. In his deposition given Holt on October 18, 1866, Campbell stated that he received but \$650 in all. *Vindication of Judge Advocate General Holt* (2nd ed.), 11. The *New York Herald*, August 24, 1866, reported that Campbell and Snelvel each received over \$1000 more than they admitted having gotten.

he had originally procured. On his arrival at New York, it was alleged, he eluded his guard and disappeared.⁵⁷

Dr. Merritt was called before the Committee, where, under cross-examination by Rogers, he admitted that his testimony before the military court was also false. He confessed that Conover had secured Montgomery as well as himself as witnesses for the prosecution, and that he had received \$6,000 from the war office for his services and testimony. So startling and incriminating were Merritt's disclosures that the majority of the Committee refused to allow the attending court reporters to transcribe their notes.⁵⁸

As the result of these developments Holt seems to have decided that the complete discrediting of Conover would be the surest way to protect Stanton and himself. He proceeded, therefore, to take Campbell back into the fold and to make him Colonel Turner's traveling companion. On May 15, Turner, in company with Campbell and a sergeant-at-arms of the Committee, went to New York and subpoenaed Wright, McGill, Patten, and Snelvel to appear in Washington. They found Snelvel residing with Conover; but Turner gave no explanation for his failure to take Conover into custody at this time. Wright, McGill, and Patten failed to appear in response to their subpoenas.⁵⁹

Snelvel, according to Turner, was persuaded by Campbell to tell the truth. On May 24, Snelvel informed the Judiciary Committee that his deposition, like that of Campbell, was false. He joined Campbell in placing all blame for the fraud on Conover. Snelvel admitted receiving \$475 for his false deposition, \$375 of which he stated was given to him by Holt, the balance coming from Conover.⁶⁰

While he did not appear before the Committee, Patten had also gone to Washington; and Conover, evidently not appreciating fully the significance of the turn of events, and feeling confident of his position, wrote to him on June 8:

Yours of the sixth was received this P.M. Your assurance that Thomas

⁵⁷ *Official Records*, Ser. II, Vol. VIII, 943, 964; "Assassination of Lincoln," *House Reports*, No. 104, 39 Cong., 1 Sess., 39.

⁵⁸ "Assassination of Lincoln," *House Reports*, No. 104, 39 Cong., 1 Sess., 36.

⁵⁹ *Official Records*, Ser. II, Vol. VIII, 923, 964.

⁶⁰ *Ibid.*, 923; "Assassination of Lincoln," *House Reports*, No. 104, 39 Cong., 1 Sess., 38. In his deposition given Holt on October 18, 1866, Snelvel stated that he received "not exceeding the sum of \$400." *Vindication of Judge Advocate General Holt* (2nd ed.), 12.

made a *faux pas* does not surprise me in the least, and you give him altogether too much credit when you say that he made a damned fool of himself, for nature did that for him over thirty years ago. But in all this I do not see sufficient cause for despondency, cheer up, *nil desperandum*. Make Taber rehearse a dozen times a day until he can play his part like a Kean, and with the two boys I have here, who are improving charmingly, we will more than make up for the loss of Campbell and Snelvel. Still it is provoking to remember what an ass Boutwell made of himself.

Had he suspended the examination of Campbell when he saw he was damaging the case, or had Wilson been possessed of wit enough to adjourn the session, with directions to the witnesses to appear again next day, which Campbell would not have done, or had Holt, after the Committee did adjourn, displayed his usual sharpness and firmness, and ordered the damned traitor to be quietly taken out of sight, all would have been well. In truth all is well enough as it stands.

If Campbell don't keep himself shady Secretary Stanton will come down on him for his bounty jumping, numerous desertions and other military offenses, which will enable the Secretary to place him where his tongue can do no harm and will soon cease to wag. He has been notified what to expect if he is not quiet, and I am sure we shall hear no more from him.

McGill is coming down in the morning, and will bear my letter. He will be able to give you the news more easily than I can write it.

Take the enclosed letter to Mr. Stevens as soon as possible, it is important that he should have it at once. I think his number is 279 South B Street; but if not you must go to him at the Capitol.

I wrote the Judge yesterday, should you be obliged to communicate with him again before I come down do so by note, as there is no doubt but Jeff's friends have spies around the Judge's office, and they might mark you.

Keep up good courage and attend to your pupil, and if we lose the game it will be through the stupidity of our friends or irresolutions of our patrons and not through any fault of our own. If we are driven to "the last ditch" and publicly exposed, we may derive some consolation from the fact that several illustrious heads are as deep in the mud as we are in the mire, and will be obliged to share the obloquy with us.⁶¹

In order that its report on this investigation might be completed before Congress adjourned, the Judiciary Committee designated Representative George S. Boutwell, one of its members, to prepare its statement and turned over to him all the papers on the case for his exclusive use. Boutwell's work was not finished until the next to the last day of the session; and this delay prevented Representative Andrew J. Rogers, the lone dissenting member of the Committee, from gaining adequate access to the materials for the purpose of preparing a minority report. Rogers made repeated attempts

⁶¹ New York *Herald*, August 24, 1866.

during July, 1866, to obtain an order from the House permitting him to use the papers, but each effort was blocked by the Radical Republican majority; and in the end he had less than forty-eight hours in which to digest the mass of evidence and prepare his statement of exceptions to the majority report.⁶²

Boutwell's report asserted that "The evidence in possession of the committee connecting Jefferson Davis with the assassination of President Lincoln justifies the committee in saying that there is probable cause to believe that he was privy to the measures which led to the commission of the deed." It admitted, however, that the investigation had not placed the government in possession of all the facts needed to prove this complicity; and after expressing the hope that a careful examination of the Confederate archives, which had recently been brought to Washington, would supply the missing information, it proceeded to becloud the issues involved by basing its argument on the assumption of guilt. Rogers, on the other hand, used the character of the witnesses and the evidence of perjury and subornation in their testimony to show that this attempt to implicate the Southerners in the assassination was without honest foundation; and while he did not actually accuse Stanton and Holt of being responsible for the scheme, his report strongly suggested that conclusion.⁶³

Meanwhile, on July 3, 1866, Holt, in an attempt to explain his apparent collaboration with Conover, sent to Stanton a carefully prepared statement covering what he declared to have been the important phases of their relationship. This report contains seven letters received by him from Conover during the period of his employment, but lacks Holt's replies. It is apparent that not all of Conover's communications are revealed. It may be assumed that in putting his best foot forward Holt disclosed the least incriminating of Conover's reports. Even these few letters contain statements which make them seem more like the accounting of one conspirator to another than the reports of a conscientious searcher for the truth to his superior. At this time, Holt also withdrew the depositions of Conover's eight witnesses from consideration.⁶⁴

⁶² For attempts to prevent Rogers from preparing and presenting his report, see *Cong. Globe*, 39 Cong., 1 Sess., Pt. V, 4018-19, 4047, 4251-52, 4262, 4285, 4305.

⁶³ For Boutwell's statement, see "Assassination of Lincoln," *House Reports*, No. 104, 39 Cong., 1 Sess., 1-29; for Rogers' report, *ibid.*, 30-41.

⁶⁴ Holt to Stanton, July 3, 1866, *Official Records*, Ser. II, Vol. VIII, 931-45.

One must guess at the reasons for Conover's next move. Possibly he had attempted to secure other money from Holt and, having been refused, decided to prove that he still was a power to be reckoned with. On the other hand, it is possible that Holt had informed him that he had been singled out to become the scapegoat for the fraud — an honor which he naturally would not relish. During August, Conover, with the aid of his wife, sold two batches of letters to the *New York Herald*. With sharp editorial comment, these were published on August 12 and 24; and they were then reprinted by many leading newspapers throughout the country. Five of these communications had been received by Conover from his minor accomplices during the course of their employment; two were letters to him from the judge advocate general; one was a copy of Conover's letter of June 8, 1866, to Patten. If the charges made in the news releases were untrue, the *Herald* was clearly guilty of libeling Holt.

This drew from Holt another effort to answer the charge of complicity with Conover by publishing, on September 4, 1866, the first edition of a pamphlet entitled *Vindication of Judge Advocate General Holt from the Foul Slanders of Traitors, Their Abettors, and Sympathizers, Acting in the Interest of Jefferson Davis*. He insisted that every step he had taken in the matter was innocent and was with Stanton's prior knowledge and approval; that the contents of the statements of Conover's witnesses had been revealed to the President and his cabinet when the depositions were taken; and thus that they, in turn, had also been imposed upon. He charged that the letters, other than his, which appeared in the newspaper article were false and were fabricated by Conover in the interest of Davis and for the purpose of discrediting the Bureau of Military Justice by an attack on the reputation of its chief. Holt further insisted that he had been the prime mover in exposing Conover's fraud.⁶⁵ Colonel Turner then came to the support of his chief by preparing a series of reports in which he, in turn, claimed the credit for the discovery of Campbell's perjury and attempted to show that the exposure of Conover had been aided by his efforts in exe-

⁶⁵ *Vindication of Judge Advocate General Holt* (2nd ed.), 5, 6, 7, 12, 14. The second edition of Holt's *Vindication*, issued on November 24, 1866, differs from the first in that it contains new depositions by Campbell and Snelvel, made on October 18, 1866, and testimonial letters from some of the members of the Judiciary Committee, added as pp. 8-15.

cuting Holt's orders.⁶⁶ Campbell and Snelvel, acting under their real names as witnesses for the state, stated on October 18, 1866, that their purported letters published by the *Herald* were forged by Conover.⁶⁷

Holt asked for a military court of inquiry on September 11, 1866. The next day Conover sold three more letters to the *Herald*, and they appeared in that newspaper, together with another long accusatory article, on September 21. Holt then made personal calls on Seward, Secretary of the Interior Orville H. Browning, and Henry Stanbery, the newly appointed attorney general, to demand either the court of inquiry or an endorsement by the administration. They reported to the cabinet that he was "under intense personal excitement"; but his request for an official investigation was refused.⁶⁸ Although Secretary Welles advised that if he felt that he was wrongly accused the civil courts were available to him for redress, Holt never sued the *Herald* for libel. He did, however, issue his second *Vindication* on November 24, in which he maintained that the three newly published letters were false and reaffirmed his previous denials of being a party to Conover's fraud.

Conover was clearly too dangerous a person to be left at large. He was indicted in November, 1866, in the District of Columbia, upon the sworn information of Campbell charging him with having committed perjury before the Judiciary Committee. He was tried

⁶⁶ Turner to Holt, September 10, November 8, and December 20, 1866, *Official Records*, Ser. II, Vol. VIII, 962-64, 973-74, 978-80. Turner's previous record, as well as the inconsistencies and obvious misstatements in these reports to Holt, indicate that his statements should be used with great caution. In 1863 he had been involved in a scandal centering around his treatment of political prisoners. *Cong. Globe*, 37 Cong., 3 Sess., Pt. II, 1131-35.

⁶⁷ *Vindication of Judge Advocate General Holt* (2nd ed.), 11, 12. According to Turner, Conover even denied that he had written some of the letters attributed to him, and denied that he had received the letters from Campbell and Snelvel which he had published. *Ibid.*, 15; Turner to Holt, November 8, 1866, *Official Records*, Ser. II, Vol. VIII, 973.

⁶⁸ The refusal of a military court of inquiry was not prompted by President Johnson's confidence in Holt or by the belief that the charges were without basis. *Welles Diary*, II, 601 (September 25, 1866), 604 (September 28, 1866), 616 (October 12, 1866); Theodore C. Pease and James G. Randall (eds.), *The Diary of Orville Hickman Browning*, 2 vols. (Springfield, Ill., 1925-1933), II, 95 (September 25, 1866), 96 (September 28, 1866). In informing Holt of the decision, however, Stanton stated that the President "deems it unnecessary for your vindication to order a court of inquiry"; but this was actually only a paraphrasing of his own endorsement on Holt's request, advising Johnson that "a court of inquiry is deemed unnecessary" because Holt's conduct "requires no inquiry or vindication." Stanton to Holt, November 14, 1866, *Vindication of Judge Advocate General Holt* (2nd ed.), 15; and for the endorsement, see *Official Records*, Ser. II, Vol. VIII, 965.

and on the evidence of Campbell and Snelvel was found guilty in February, 1867, and sentenced to serve ten years imprisonment. He was not removed to the penitentiary, however, until six months later;⁶⁹ and his life was far from monotonous while he remained in the Washington jail. Both before and after his conviction he turned his efforts toward obtaining a presidential pardon, alleging that "he was but the tool of high-placed government officials who, being threatened with public exposure, to save themselves threw him over, set afoot his prosecution and procured his conviction."⁷⁰ To promote his case he entered into a secret agreement with Representatives James M. Ashley and Benjamin F. Butler, leaders in the efforts to discredit President Johnson, to produce evidence connecting Johnson with the assassination plot in return for which they would secure his pardon from Johnson. During the summer of 1867, despite the fact that he was in jail, he wrote out the desired depositions, had prospective witnesses memorize them, and presented the witnesses to Ashley and Butler for their approval; but he refused to let their depositions be taken before his pardon was secured.⁷¹

Ashley and Butler sought to fulfill their part of the agreement by obtaining letters from appropriate individuals urging the President to pardon Conover, and these documents were presented to Johnson on July 26 — the same day that Conover's petition for a suspended sentence was denied by the Washington court. Three days later, Conover, convinced that his new friends had failed to keep their promises, addressed a long communication to the President revealing the details of the agreement that had been made. With his statement he enclosed four letters from Ashley in reference to the matter, a letter from the clerk of the Judiciary Committee of the House of Representatives, and a specimen of the memorandum which he had prepared for the use of the witnesses. Although Johnson had previously been advised of the plottings, this concrete evidence came as a great shock to him; and at his di-

⁶⁹ *New York Herald*, February 10, April 16, 1867; *Welles Diary*, III, 143 n., 145 (July 30, 1867); Pease and Randall (eds.), *Browning Diary*, II, 152 (July 30, 1867). See also David M. DeWitt, *Impeachment and Trial of Andrew Johnson* (New York, 1903), 142.

⁷⁰ *New York Times*, August 10, 15, 1867; DeWitt, *Impeachment and Trial of Andrew Johnson*, 153-54, 278-81; Milton, *Age of Hate*, 412 ff.

⁷¹ *New York Times*, August 10, 1867; *Welles Diary*, III, 143-46 (July 30, 1867); Pease and Randall (eds.), *Browning Diary*, II, 152 (July 30, 1867), 153 (July 31, 1867).

rection all of the documents were published in the newspapers on August 10, 1867.⁷²

When this disclosure revealed Judge Advocate General Holt as one of the petitioners for Conover's pardon, the question of the relationship between the two men seems to have been renewed; and either Holt or his friends apparently took up once more the efforts to show that they had not been collaborators in the earlier investigation. On August 15 a series of affidavits appeared in the newspapers in which various alleged accomplices of Conover brought new names into the picture by charging that Ben Wood, Roger Pryor, and others had offered to pay them to make perjured statements which would incriminate Holt in Conover's purported efforts to aid Davis and other Southerners.⁷³ Although Holt denied being responsible for the release of these affidavits, their charges repeated the implications of his *Vindication* of the previous year, and Secretary Welles confided to his diary his own belief that their publication had been given his consent if not his direction.⁷⁴

But in the increasing intensity of the conflict between the President and the Radical Republicans over reconstruction policies this episode proved to be little more than an echo of an issue which had faded into the background. Clay had long since been released on parole and the charges against the other members of the so-called Canadian cabinet were no longer being discussed. Before the end of August, Conover was taken to the federal penitentiary at Albany, where he remained until Johnson granted him a pardon in 1869. Pardons were also granted in that same year to the four men who had been imprisoned for complicity in the Booth conspiracy. Davis was not brought to trial on the conspiracy charge, and after releasing him on bail following his indictment for treason the government eventually entered a *nolle prosequi* and closed the case.⁷⁵ Holt,

⁷² *New York Times*, August 10, 1867; *New York Tribune*, August 19, 1867; *Welles Diary*, III, 157 (August 5, 1867), 161 (August 7, 1867), 165 (August 10, 1867), 168 (August 12, 1867); Pease and Randall (eds.), *Browning Diary*, II, 153 (August 2, 1867), 157 (August 16, 1867); and for the later cross-examination of Representative Ashley, see "Impeachment of the President," *House Reports*, No. 7, 40 Cong., 1 Sess., 1194 ff. Brief secondary accounts are in DeWitt, *Impeachment and Trial of Andrew Johnson*, 278-81, and Milton, *Age of Hate*, 412-14.

⁷³ *New York Times*, August 15, 1867.

⁷⁴ *Welles Diary*, III, 172-73 (August 16, 1867), 174 (August 19, 1867). See also *New York Tribune*, August 19, 1867, and Pease and Randall (eds.), *Browning Diary*, II, 157 (August 16, 1867).

⁷⁵ For a full discussion of Davis' case, see Roy F. Nichols, "United States vs.

continuing as judge advocate general, became deeply involved in the fight against Johnson; but his later attempts to explain or justify his role in the conspiracy investigation suggest that its memory continued to haunt him.

The conspiracy to implicate the Southern leaders in Lincoln's assassination had obviously failed, but the selfish partisan motives behind it and the unscrupulous methods used by its promoters set a pattern which jeopardized the rights of individuals and threatened to undermine the integrity of democratic governmental procedures. That the original idea, conceived in a moment of personal fear and panic, was the brain child of Secretary Stanton can hardly be disputed. It is also clear that when his charges were promulgated through presidential proclamation he had no reliable evidence to support them; and so long as Davis was at large such evidence was not essential. But with the capture of Davis while the conspiracy trial was in progress he was placed in an extremely embarrassing position. That he did not intend to have the Confederate President and his "Canadian cabinet" tried for complicity in the murder plot is indicated by his order that the prisoner be taken to Fortress Monroe instead of to Washington. "I do not mean that he shall come here . . ." he wrote in his instructions of May 14, 1865, to General Henry W. Halleck. "His trial and punishment, if there be any, shall be in Virginia."⁷⁶ He could hardly have been ignorant of the fact that the only charge on which Davis could properly be tried in Virginia was that of treason.

Because of the emphasis with which he had made his original charges, however, Stanton was no longer in a position to control the developments. The verdict of the military tribunal and the resulting demand that the Confederate officials be brought to trial made it seem imperative that he find the evidence to establish his ill-conceived theory as a fact; and he permitted Holt to proceed without regard for the truth of the accusations or the personal rights of the accused. While there is no positive evidence of Stanton's continuing personal participation in the devious activities of Holt and his agents, it is clear that he could not escape knowledge of what was being done and that he took no steps to stop it. By permitting the facilities of his powerful office to be used and enormous sums of

Jefferson Davis, 1865-1869," *American Historical Review* (New York), XXXI (January, 1926), 266-84.

⁷⁶ *Official Records*, Ser. I, Vol. XLIX, Pt. II, 759.

public funds to be squandered, he was in reality abetting perjury; and both he and Holt must shoulder the responsibility for the acts of the ill-famed participants in this abortive plot, which, had it succeeded, would probably have resulted in the unwarranted death of innocent men. It is not difficult, therefore, to understand the exclamation of Representative Andrew J. Rogers in his minority report on the Judiciary Committee findings that "the cool turpitude of the whole crew sickened me with shame, and made me sorrow over the fact that such people could claim the name of American."⁷⁷

⁷⁷ "Assassination of Lincoln," *House Reports*, No. 104, 39 Cong., 1 Sess., 39.