



Judge Advocate General Joseph Holt, left, and members of the Military Court trying the Lincoln conspirators (Library of Congress)

by James W. Thompson

One of the peculiar aspects of the American History is the incredible episode involving famous men - the murdered President Lincoln, Confederate President Jefferson Davis, Secretary of War Stanton, General Lewis Wallace, President Andrew Johnson, Jacob Thompson, a Mississippian who was member of President Buchanan's cabinet and was later Confederate Commissioner in Canada, assorted senators and congressmen and near famous men, a number of nobodies, and above all, the star of the show, Joseph Holt,

Judge Advocate General of the Army, prominent lawyer, politician, former cabinet member, and a former resident of both Jackson and Vicksburg. This episode involves also some of the momentous events in American history - Lincoln's assassination, the trial and conviction of John W. Booth's accomplices, both real and alleged, the hanging of Mrs. Mary Surratt, the firing of Secretary of War Stanton, and the impeachment trial of President Andrew Johnson.

Stated briefly, the episode is this : it was an attempt by Judge Advocate General Holt and Secretary of War Edwin M. Stanton to convict and execute Jefferson Davis for Lincoln's murder to be accomplished by a whole stable of carefully drilled and rehearsed perjurers. This was a clear case of the suborning of perjury by the army's judge advocate general. This perjured testimony was also used, completely unnecessary, in the trial of Booth's accomplices, Paine, Herold, Atzerodt and the others, some of whom were clearly guilty, with others, including Dr. Mudd and Mrs. Surratt, probably innocent. The military court, which tried them, found them guilty of conspiring with Jefferson Davis for the murder of Lincoln and sentenced four defendants to be hanged, with the others receiving prison terms. Yet that military court was totally without jurisdiction to try any of the defendants. The United States Supreme Court subsequently ruled that a military court could not try civilians in areas where the civil courts were functioning, but four people had been illegally hanged by then. Five of the nine

members of the military court never intended for Mrs. Surratt to be hanged, but agreed to that sentence in return for submission of their recommendation for clemency for her. But Holt and Stanton withheld this recommendation from President Johnson and she was hanged. Later, when Johnson discovered this, it triggered his removal of Stanton from office, and it was this action, which resulted in Johnson's impeachment trial.

Yet no one writes about, speaks about, or does any research on the judge advocate general's perjury plot. Few books even name Holt's principal agent in the plot, Sanford Conover, and the few which do generally convey the idea that it was all Conover's doing, and nothing more. Yet proof of the whole sordid affair is to be found in a mass of documents printed in the Official Records of the War of the Rebellion, Series II, vol. 8.

Further evidence is found in the published testimony at the trial of the assassins made public by Benn Pitman, the court reporter and originator of the Pitman shorthand system. Scattered evidences may be found in a few other books, including some of the writings of the late Dr Otto Eisenschiml. And we owe a big debt to one obscure congressman from New Jersey, Andrew J. Rogers, who was able to expose and preserve a record of some of the skullduggery practiced in the cover-up, despite incredible roadblocks thrown in his way by a dishonorable representative from Massachusetts, Boutwell, who wrote the majority report. But the only adequate account in print, so far as I have ever been able to discover is a 28-page article by Seymour J. Frank, a Chicago attorney, printed in the March 1954 issue of the Mississippi Valley Historical Review, one of the major scholarly historical journals of the nation. Using all of these sources and a few others on various points, I have put together the story, which I will give you.

Judge Advocate General Joë Holt was born January 6, 1807 in Breckenridge County, Kentucky, the son of a lawyer, John Holt, and his wife Eleanor Stephens Holt. The eldest of six children, he was educated at St. Joseph College and Centre College, and at the age of 21 he opened a law office at Elizabethtown, Ky. For a year he was the law partner of Ben Hardin, a five-term member of Congress. Holt gained a reputation as an eloquent speaker and as an ardent Democrat. In 1832, at the age of 25, he moved to Louisville, Kentucky, where he was for a year the assistant editor of the "Louisville Advertiser" and for two years commonwealth's attorney. Taking a prominent part in the race of Richard M. Johnson for the Vice-presidential nomination by the Democrats, Holt, at the 1836 Democratic national convention delivered a speech, which won him national acclaim. In 1837, at the age of 30, Holt moved to Mississippi, living here in Jackson for a short time before moving on to Vicksburg, where he lived until 1842. He was given a cordial reception in Mississippi as an ardent Democrat, and he immediately took his place as one of the State's leading lawyers. During his years at Vicksburg he was involved in many of the State's most celebrated cases, being often opposed by his great political and legal rival, the Whig lawyer Sergeant S. Prentis. Their most widely followed case was that of Vicksburg versus the Mayor and Alderman of Vicksburg, involving title to a large tract of valuable land in Vicksburg. Holt won the case, but Prentis won an appeal to the State Supreme Court only to have that decision overturned by the United States Supreme Court.

Holt left Mississippi in 1842, after his wife, Mary Harrison Holt, died of tuberculosis and Holt himself had contracted the disease, but in his five years here, he had accumulated a considerable fortune, so he retired at age 35, returning to Louisville to recuperate. For several years he took little part in politics or active affairs of any kind but eventually he recovered his health and married Margaret Wickliffe, daughter of Charles A. Wickliffe. In 1856 he took an active part in the campaign of President James

Buchanan. Following the election, President J. Buchanan appointed Holt Commissioner of Patents in 1857. In 1859 he was advanced to the cabinet as Postmaster General, serving until January 1861, when Buchanan appointed him Secretary of War for a couple of months to succeed the resigned John B. Floyd. He left office in March 1861 when Lincoln became the Republican president. Like General Ben "Beat" Butler, Holt had always sided with the South and opposed the abolitionists, but when the Southern States began to secede, he went to the opposite extreme. He was prominent in the effort to keep Kentucky in the Union, and Lincoln rewarded him on September 3, 1862, by appointing him as the first Judge Advocate General of the Army. By that time Lincoln had become embroiled in a controversy with Congress over his war powers, particularly involving his treatment of political prisoners. It was Lincoln's determination to arrest persons whom he suspected of activities, which he considered disloyal, and to hold them in prison for indefinite terms by means of suspending the writ of Habeas Corpus. The Constitution reads : "*The privilege of the writ of Habeas Corpus shall not be suspended, unless when in case of rebellion or invasion the public safety may require it*". But it was silent on who was to judge whether "the public safety" required its suspension. Should the President, or Congress, or the Supreme Court decide ? There was no argument over whether a rebellion was under way, and there was no argument about the legality of military arrest in war zones where civilian government had been displaced. But it was Lincoln's intention to imprison people who were described by Nathaniel Weyl in his book *Treason* as people whom the courts had no right to convict since they had committed no crime and were protected by the Constitution.

Lincoln's position was that necessity required the stifling of all opposition, but of course he always expressed it in a folksy, innocent way. Lincoln was all too aware that the civilian courts and the jury system would make difficult the application of his policies against opponents. Therefore he had to resort to military courts called the "military commission" and enlarging the jurisdiction of these new bodies. The success of this plan permitted Lincoln and Holt to arrest and hold in prison a large number of persons who could not possibly have been prosecuted in civilian courts under the Constitution and Laws of the country. The most conspicuous of such persons were Senator Clement L. Vallandigham of Ohio and Lambdin P. Milligan and his associates of Indiana, both leaders of the Copperhead movement in the North. In the Milligan case, the U.S. Supreme Court, in December 1866, decided that the system developed by Lincoln was illegal, and it held that no branch of the government could suspend the writ of Habeas Corpus in the District of Columbia, after the war had ended, that tried and sentenced Mrs. Surratt and the others. It was nice to know, 17 months, after her execution, that the military court lacked jurisdiction to try her and could not sentence her to death by hanging.

President Lincoln was assassinated by John Wilkes Booth while attending a performance in Ford's Theatre in Washington, on the evening of April 14, 1865. One of Booth's co-conspirators, Lewis Paine, at about the same time made an attempt to kill Secretary of State Seward in his home, and a planned attempt to kill Vice-President Andrew Johnson did not materialize. Booth escaped on horseback, breaking an ankle in his flight, later appearing at the home of a Maryland country physician, Dr. Samuel A. Mudd, who set his ankle for him. Later Booth was apprehended and killed in a Virginia barn by Federal soldiers, who captured his diary, which gave valuable information on his schemes. A number of people associated with Booth or unfortunate enough to have had their path cross his were arrested for complicity in the assassination and were brought to trial. Guilt or innocence made no difference - the government under

Secretary of War Stanton and Judge Advocate General Holt was out for blood.

Following the assassination, Secretary of War Edwin M. Stanton took over the leadership of government, making himself assistant to President Andrew Johnson. Stanton announced to the world that Lincoln's death was a part of a general Confederate plot to murder Lincoln, his cabinet and leading Union generals, planned and ordered by Jefferson Davis and other Confederates.

On May 2nd, President Johnson called for the names of the guilty Confederates and for the evidence against them. This presented something of a problem since Stanton actually had no such evidence. The best he could do was to have Judge Advocate General Holt relate to the President the stories told by two paid informers of the War Office. These men were Richard Montgomery and Dr. James B. Merritt, and their stories had never been given under oath or reduced to writing. On the basis of this flimsy, second-handed evidence repeated to him by Holt, President Johnson issued a proclamation which read : *"... 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"*.

Johnson offered \$ 100,000 reward for the capture of Davis and \$ 25,000 for each of the others, except that Cleary was priced at only \$ 10,000. It is very peculiar, but the Official Records, Series II, vol. 8, p.549 - 552 show that on May 10, Stanton received a wire from B. Devlin, one of his agents in Montreal, Canada, stating that Sanders, Tucker and Cleary were still there, and asking if he should have them arrested by Canadian authorities for extradition. On May 11, Stanton incredibly wired back : *"The government is taking measures upon the subject of your telegram of yesterday, of which you will be advised when action is required"*. He took no steps for the detention of these three men, for whose capture he had just eight days earlier induced the President to offer large rewards. Richard Montgomery, the first of Holt's two alleged "witnesses", claimed that he had frequently conferred with Jacob Thompson, the Canadian agent for Jefferson Davis, and that he had heard of a proposal to assassinate Lincoln, Stanton, U.S. Grant and others but that Thompson had not been willing to approve it without consulting Richmond, and that he had no knowledge of whether Richmond, meaning Davis, had approved the proposal. Vague as this testimony was, its value became even less when certain facts about Richard Montgomery became known. According to his own testimony at the conspiracy trial, Montgomery was a spy who took money from both the Federals and the Confederates. It also developed that he had frequently been in prison in New York, where he had been convicted of robbery. It also was proved that at the time he claimed to have had conversations in Montreal with Jacob Thompson, the latter was not within three hundreds miles of Montreal.

Holt's second "witness" was Dr. James B. Merritt, who was born in Canada of New York parents. He had lived in Canada during 1864 at Windsor and at North Dumfries. He claimed to have met some Confederates who introduced him to G.N. Sanders and C.C. Clay, and that he had in their company heard much talk of the assassination of Lincoln. He claimed to have either seen or heard mention of several of those involved in Booth's plot. On April 20, five days after Lincoln's assassination, Provost Marshall General James B. Fry wrote to Dr. Merritt that he had heard that Merritt had information on the crime. He promised to pay him all expenses *"and in addition to promise a suitable reward if reliable and useful information is furnished"*.

Dr. Merritt claimed at the conspiracy trial to have given advance information on the assassination to Squire Davidson, a justice of the peace at Galt, Ontario, but claimed that the information had been ridiculed. The court reporter at the trial, Benn Pitman, decided to make public a part of the testimony including this claim by Dr. Merritt. Remember that Canada in 1865 was not a self-governing dominion, but a British colony. When the British minister in Washington read this claim in the newspapers, he realized that if a British Official had ignored such a warning, there might be international consequences, so he wrote to the Waterloo County attorney's office in Berlin, Ontario, for more information, on June 13. Thomas Miller, the county attorney replied, branding the claim as "utterly false". He also enclosed a letter from J. Davidson, the justice of the peace referred to in Dr. Merritt's testimony. Mr. Davidson labeled the story as "*a miserable fabrication containing not a particle of truth*". He added that "*I know nothing about the man personally but from inquiry I find that his character stands very low in the neighborhood in which he lives*". The British minister forwarded these letters to the State Department in Washington, and Acting Secretary of State Hunter, on June 27, sent them to Judge Advocate General Holt. Dr. Otto Eisenschiml, in his book *Why was Lincoln murdered ?* says : "*These letters were found in the files of the judges advocate's offices pertaining to the conspiracy trial, and it is therefore an unquestionable fact that Holt, Bingham and, presumably their commander in chief, Stanton, willfully suppressed the truth and used testimony which they knew to be perjured*".

Dr. Merritt was paid \$6,000 by the government for his lies. How flimsy the evidence of Montgomery and Merritt was is indicated by a statement made by one of the most extreme of the reconstruction radicals, Senator Thaddeus Stevens of Pennsylvania, who hated Jefferson Davis with what Eisenschiml calls "deadly malignity". He told George Shea, one of Jefferson Davis' lawyers, that Holt had shown him the "evidence" upon which Johnson's proclamation was based, and that he had found it both insufficient and incredible. He then said to Shea : "*Those men are no friends of mine, they are public enemies and I would treat the South as a conquered country and settle it politically upon the policy best suited for ourselves. But I know these men, sir, they are gentlemen and incapable of being assassins*". While this seems to clear Stevens of complicity in Holt's plot, there is also good reason to believe that both he and Senator Ben Wade of Ohio may have been parties to it, and that Stevens was merely taking pains to clear himself in case the plot blew up. I will mention this evidence later.

Holt's star witness at the conspiracy trial was a man who may have brought Montgomery and Merritt to Holt's attention but who was not himself one of the first witnesses. This man went by the name of Sanford Conover and had an alias as James Watson Wallace. But his real name was Charles A. Dunham. He was a lawyer, 28 years old in 1865, and he provided an endless chain of changing and contradictory stories, besides serving as a recruiter of "witnesses", acting as their dramatic coach and drillmaster to perfect their performances.

Conover testified that during the war, while he was temporarily residing in South Carolina, he had been conscripted into the Confederate Army and assigned as a war office clerk in Richmond. He claims to have escaped north to his native New York in December 1863, going from there to Washington as a correspondent of the New York Tribune on a basis paid only for articles accepted. He claimed not to be a paid agent of the North, and that his only income was his pay from the Tribune. He claimed that in October 1864, he had gone to Montreal as a tribune reporter, posing in Montreal as

James Watson Wallace, a Southerner. As such he claimed to have been fully accepted by Jacob Thompson and other Confederates in Canada, who talked in his presence of their plans to assassinate Lincoln and to carry out various sabotage schemes. Conover claimed that in late January or early February, he had been invited by Jacob Thompson to be one of the assassins, and was told that official Richmond had approved the plan.

Unfortunately for Conover, when Benn Pitman made public his testimony, it was conclusively proved that Thompson had been continuously absent and a long distance from Montreal throughout the period covered by Conover's testimony. Apparently Conover was another double agent, with no loyalty to either side, for part of his next testimony was true. He truthfully claimed that, as Wallace, he had testified in Montreal on February 11, 1865, on behalf of the Confederate soldiers involved in the famous raid on St. Albans, Vermont, after their escape to and detention in Canada. He claimed that his testimony at Montreal was limited to identifying the signature of Confederate Secretary of War James A. Seddon on military commissions issued to the leaders of the St. Albans raid. He failed to inform the military commission in Washington that in his Montreal testimony he had claimed to be a native of Virginia, not New York, and that he had resided in his own home in Virginia, not South Carolina, until his home was burned down by Federal soldiers, and that he had then been commissioned a major in the Confederate army and authorized to raise a battalion, not conscripted into the Confederate army and assigned as a war department clerk, as sworn to in his Washington testimony. Almost all of his Washington testimony contradicted his Montreal testimony ; Conover completed his Washington testimony on May 22nd and he almost immediately left the city.

He reappeared in Montreal as James Watson Wallace in early June, just as Benn Pitman was releasing his Washington testimony, and it was printed in the Montreal newspapers. He thereupon had William H. Kerr, the Canadian attorney for the St. Albans raiders, prepare a statement which he signed under oath on June 8. He swore that his entire Montreal testimony, given on page 212 of that hearing, was the truth, and that he, Wallace, had never used the name Sanford Conover, that he had never testified at the Washington trial, and that he had never been employed by the New York Tribune. He swore that Conover had impersonated him in Washington and had sworn falsely. He added that he was not an intimate of Jacob Thompson and his associates, and denied having had the conversations with them claimed in Conover's Washington testimony. He denied knowing John Wilkes Booth personally, or having seen him in Montreal, as Conover's testimony had claimed.

This affidavit was published in the Montreal Telegraph on June 10, along with two strange offers. "Wallace" offered that if President Johnson would guarantee him safe conduct to and from Washington, to appear voluntarily before the Military Commission and prove that he was not Conover. In addition, so that the scoundrel Conover could be brought to justice, he offered a \$500 reward for Conover's capture! This affidavit and "Wallace's" two offers were printed in the New York World for June 13. The Montreal Telegraph had interesting news on June 16 : James Watson Wallace was confined in city jail, charged with being a common vagrant. The Telegraph also stated that "*We hear he now confesses that 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*". But the U.S. War Department, acting through General John A. Dix, obtained Conover's release and, by June 27, he was back in Washington. The prosecution in the conspiracy trial delayed its closing remarks so that the military commission could be informed by

Conover as to what had taken place on his Montreal trip. He testified that the "Wallace" affidavit was false, and that the two offers had not been intended seriously, that he had been forced, at pistol point, to sign the affidavit and offers, that he had been kidnapped by a "dozen rebels" who threatened his life, and Canadian attorney, Kerr, had been present. He further claimed that in the official Canadian proceedings of the St. Albans Affair, his testimony had been confused with that of other witnesses. Holt then read a newspaper article giving "Wallace's" St. Albans testimony, and Conover stated that the article was from a Montreal newspaper and that it was he who had substantially testified on February 11. This article mentioned only his identification of Seddon's signature.

Holt somehow forgot to inform the military commission that under Canadian procedure "Wallace's" testimony had been reduced to writing and signed by the witness before it became a part of the official record. Conover claimed he had made the recent Montreal trip to get a copy of the St. Albans hearing record for the judge advocate general. He did not explain why it was necessary to send a civilian on a long journey when a telegraphed request by Holt to the Canadian authorities would have produced a copy at once.

The military commission proceeded to reach its verdict on July 6, and in just 24 hours, Mrs. Surratt, Paine, Herold and Atzerodt were all executed. On the same day, July 7, 1865, the Toronto Globe, a strongly pro-Northern paper, published the first letter written by "Wallace" to Jacob Thompson, seeking to make the latter's acquaintance. This letter was dated March 20, 1865, long after the dates on which he had, as Conover, testified that Thompson had discussed the assassination and sabotage plans with him. This proved that he had not even met Thompson at the time claimed, late January and early February. On July 11, the Globe told its readers that the U.S. Consul in Montreal had certified that the letter to Thompson was in Conover's own handwriting.

By the end of July 1865, Holt and Stanton were in a dilemma, for Conover had been thoroughly discredited. It was clear that the charges against Jefferson Davis, Jacob Thompson, Clay and the others would not hold. They dared not bring the accused to trial, nor could they release them and admit that they had been lying to the people in their hour of sorrow. They concluded that it was necessary to obtain new evidence which would justify continuing to hold those in custody, and that even if such evidence should eventually prove false, it must be such as would make Stanton and Holt seem to be the victims of scoundrels, rather than themselves the originators of a huge fraud.

And who was given the task of assembling this new evidence? Why Sanford Conover? On July 26, 1865, Conover wrote to Holt claiming that he could produce three unimpeachable witnesses of good character who could testify that Davis had approved plans to murder Lincoln. After Conover made another request on August 2nd, Holt and Stanton decided to hire him. Remember that this was just after his whole previous testimony had been proved to be a mass of lies. Yet, Holt in a letter to Stanton, almost a year later, dated July 3, 1866, endeavoring to explain and justify his actions, made the following claims: *"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 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 frankness and his known connection with important sources of information, to inspire faith in his professions and promises"*.

This contrasts strangely with the comments of Representative Andrew J. Rogers of New Jersey : *“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 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 ?”*.

Conover now worked out an elaborate system for preparing and presenting his new “witnesses”. Upon obtaining a person willing to testify for pay, Conover wrote out the questions to be asked and the answers to be given. He would rehearse the witness until satisfied with his performance. Conover would then bring the witness to the War Department where Holt himself would take his deposition. No one but Judge Advocate General Holt himself ever took the statements of these witnesses and Conover was always present to signal the witness if he made a mistake in answering after which the witness would amend his answer. In all, Conover produced eight such witnesses, six men and two women, and their statements were all reduced to sworn depositions.

Holt always avoided any questions touching on the witnesses’ previous history or backgrounds, which would permit any judgment of their reliability. Despite this, Holt in a letter to Stanton, dated December 6, 1865, claimed to have established the reliability of these witnesses by “severe tests”. Holt’s reason for avoiding any testimony concerning the backgrounds of the witnesses is apparent from the menial occupations and their backgrounds, which would have made their testimony preposterous. Moreover, they all testified under false names.

A licensed peddler from New York City who sometimes drove a one-horse cart was the first witness on August 17, 1865. He was presented as John McGill, but his true name was Neally. Stanton actually read this fraud’s testimony at a cabinet meeting the next day, but Secretary of the Navy, Gideon Welles confided to his diary that the story *“though plausibly got up, was chiefly humbug”*.

Not until November 4, 1865, did Conover produce another witness. Remember that all of the testimony previously linking Davis and the Confederates in Canada with Lincoln’s assassination had fallen apart, but Stanton and Holt still kept the accused in prison on the strength of evidence still to be produced by the lying Conover.

His second witness was presented as William A. Campbell, although his real name was Joseph A. Hoare, a native of New York and a “gas-fixer” employed in New York City. He had never been in the South. Presented at the same time was the third witness, under the name of Joseph A. Snelvel, although his real name was William H. Roberts, a former ticket agent for the Harlem Railroad in New York, and later a tavern keeper in Yonkers. He also had never been in the South. Both men swore that they had been present in late March 1865, at conversations in Richmond between John H. Surratt and Jefferson Davis. They claimed to have been introduced to Davis by Surratt, and they said that Davis, thinking they were two of the assassins, expressed his approval of the intended murder of Lincoln. They also claimed to have seen Davis give Surratt a letter, which Conover had earlier testified seeing Surratt deliver to Thompson in Canada in April. After this testimony, Campbell, and possibly Snelvel as well, was received by President Johnson, the Secretary of State and Secretary of War Stanton at a private conference where the details of the evidence were further discussed.

The fourth witness was presented on November 23rd as Farnum B. Wright, but his true name was John Waters, and he was a lame employee of a brickyard near Cold Springs on Long Island. He swore that early in the war he had been employed as a private detective in Richmond by General John H. Winder, who had confided to him

that a plot had been perfected to kidnap or kill Lincoln. He further swore that in the summer of 1863 he had at a conference heard Davis and Winder urge three men to make haste in carrying out the plot.

Conover's seventh witness was presented on February 24, 1866, as John H. Petten, but he was actually Peter Stevens, a Justice of the Peace at Nyack, near Piedmont on the North River in New York. His testimony corroborated that of the witness called Farnum B. Wright. Meanwhile, on February 6, 1866, Conover produced his fifth and sixth witnesses, both females. The first was submitted as a Mrs. Sarah Douglass, a resident of Toronto. She testified that in November 1864 at her home in Toronto, she had had a conversation with Clement C. Clay in which he had justified the intended murder of Lincoln. The other witness was presented as Miss Mary Knapp, a spinster who swore she had overheard the conversation of Mrs. Douglass with Clay. But it turned out that "Mrs. Douglass" was actually Mrs. Sanford Conover and that "Miss Knapp" the spinster, was actually Conover sister-in-law, a Mrs. Charles Smythe.

The true name of Conover's eight and final witness is not known. He was presented on February 8, 1866 as William H. Carter, but it is known that as late as April 1866, he was employed by the quartermaster's office at Baltimore. His affidavit supported that of McGill, the first of Conover's eight witnesses. They stated that on the recommendation of Captain Robert C. Kennedy, the Confederate agent who had been captured and executed for seeking to burn New York City, they had been employed by C.C. Clay to be two of Lincoln's assassins. They claimed to have been hired in November 1864 with the understanding that each was to receive \$5,000 if successful, and each was given \$10 expense money in the meantime. However, they claimed that shortly thereafter Kennedy had told them that their services would not be needed as the task had been placed in more competent hands.

Although Holt was claiming to be amassing a vast array of what he was pleased to call "prima facie" evidence, on October 13, 1865, Secretary Stanton refused to request the extradition of John H. Surratt from England. On November 24, 1865 he withdrew the reward offers for the capture of Surratt, Thompsen, Tucker, Sanders and Cleary, all of whom were still at large.

During late 1865, the rumor spread that President Johnson was delaying the trial of Davis and Clay to permit them to escape punishment. Radical Republicans in Congress, with the intention of embarrassing the President, called for a congressional investigation. Democrats, desiring to embarrass the Radicals, joined in calling for the investigation. On January 10, 1866, the House called upon 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*". The president conferred with Attorney-General Speed and on February 9th replied to the House that publication of the information requested was not in the public interest.

The House was wholly dissatisfied with this reply, and on April 9th instructed its judiciary committee to make a thorough investigation of the case against Davis and Clay. On April 17th, the Committee formally demanded of the War Office that it be furnished with the evidence on hand against Davis and Clay. Stanton was not at all upset, however, because his radical Republican henchman controlled the committee, which included only one member who was not a part of the radical juggernaut, Representative Rogers of New Jersey. The committee, as Stanton anticipated, would merely have approved the conduct of the government had it not been for one man on the committee, Representative A.J. Rogers. He pretty thoroughly exposed the fraud by his

questions on cross-examination, and in his minority report preserved the facts in the case.

Holt complied with the committee's request, sending it the evidence presented in the military trial already held, plus the affidavits and depositions of Conover's new witnesses, accompanying this material with an explanatory argument about which Representative Rogers later commented : "*... the sending of such an argument I feel compelled to attribute to a desire to place his 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 form of a military commission, and through that ... instrument in the hands of power to murder them*".

It was no problem for Holt to produce the written statements but as the committee's investigation proceeded, it developed that some of the witnesses were unwilling to tell the same stories under oath before the committee. On April 17, a letter to Conover in New York, written by one who signed himself "M" (probably R. Montgomery), read : "*That villain Campbell has divulged the whole arrangement to Davis' friends and will, if possible be pushed before the committee. I have spent 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 nr 8 were at headquarters the day before yesterday and are furious. We shall be rewarded if we save their bacon. It must be done ...*".

It seems a certainty that the references to Old 279 and nr 8 referred to Senators Thaddeus Stevens and Ben Wade. Stevens' Washington address was 279 South B Street, and Wade's was n° 8, 41/2 street. If we remember that the references to them were not in public statements or charges, but in a private letter from Richard Montgomery to Sanford Conover, the conclusion to be drawn is obvious, Montgomery was still on the payroll of the War Office, despite his exposure as a liar.

On April 27, 1866, Conover's eight and final witness wrote to Conover in New York from Baltimore, reporting that he had just received a letter from Campbell in which the latter was threatening to go before the committee "*and expose all that had been devised in the Davis case, and asking me to accompany him, as he and all who will, will get large sums from Jefferson Davis' friends for doing so*". He claimed to have given Campbell's letter to Holt, who said that he had known for some time of Campbell's defection. He also mentioned that Holt had said that Conover had already written to the committee chairman, Rep. Wilson, not to examine Campbell. Carter said that Holt had already sent a man from his office to New York with instruction for Conover to get Campbell "in the traces again", or to keep him away from the committee. Carter's letter was sent to Conover by a man named Masch, and Carter advised in the letter that Mason was able to give Conover "*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 . . .*".

Holt had written Conover one day earlier, April 26, as follows : "*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 committee ... 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 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 insistence 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”.

As a result of Conover’s efforts, Campbell agreed to testify and to stick by his story. Colonel Turner took him into “protective custody” in order to make sure that he did not run out on Holt. Arriving at Washington, Campbell talked privately to Holt and convinced him that he would stick to his story. Conover was also called to Washington, where he testified before the committee on May 8, 1866. He was not required to repeat any of his testimony of May 20 and 22, 1865, which was merely read to him, after which he stated that what he had said was true. Campbell was the next witness. He proceeded to admit that the testimony in his deposition was false, that Conover had prepared his testimony, and that he had memorized it and had repeated it to Holt. He admitted that he was guilty of perjury, and told the committee that he had been paid \$500 by Holt, \$100 by Conover, and had been given another \$300 for traveling expenses. Both the committee and Holt’s entire apparatus of perjurers were thrown into consternation. Conover swore that Campbell was lying. Later that summer, the New York Herald reported on August 24 that both Campbell and Snelvel had received more than \$1,000 in excess of the admitted payouts. After the Campbell fiasco, Conover returned to New York, accompanied by a sergeant-at-arms of the committee for the purpose of finding the other witnesses. After arriving in New York, he supposedly eluded his guard and disappeared.

Dr. Merritt testified before the committee, and Representative Rogers made him admit that Conover had procured both him and Richard Montgomery as Holt’s two original witnesses, and that the War Office had paid him \$ 6,000 for his testimony. So incriminating was his testimony that the radical Republican majority of the committee would not allow the attending court reporters to transcribe their notes. Holt now decided that the only way he could protect himself and Stanton was by turning on Conover. To do this, he took Campbell back into favor and on May 15, he sent Campbell, along with Colonel Turner and a committee sergeant-at-arms, to New York to subpoena Wright, McGill, Patten and Snelvel to testify in Washington. Although they found Snelvel residing with Conover, they strangely did not arrest Conover. Wright, McGill and Patten all failed to respond to their subpoenas. Colonel Turner reported that Snelvel had agreed, on Campbell’s urging, to tell the truth and on May 24, Snelvel told the committee that his testimony had been false, like Campbell’s. He said that Holt had paid him \$ 375 and Conover \$100, and blamed Conover for his perjury. Patten had gone to Washington, but not to appear before the committee. On June 8, Conover wrote to him in response to a letter from Patten dated two days earlier. Conover told Patten that the situation was not lost, and exhorted him to make a prospective witness named Taber *“rehearse a dozen times a day until he can play his part like a Kean (a leading actor of the day), 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”.*

He was critical of Representative Boutwell and of the committee chairman, Representative Wilson for not being bright enough *“to adjourn the session with directions to appear the next day ...”* when they saw the damaging nature of Campbell’s testimony. He added that Campbell would not have reappeared. He also criticized Holt for not ordering *“the damned traitor to be quietly taken out of sight”*. If only that had been done, he lamented, all would have been well. But he cheerfully added that *“In truth all is well enough as it stands”*, and he continued : *“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. Take the enclosed letter to Mr. Stevens as soon as possible, it is important that lie 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. 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 irresolution 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 consolations to 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".

The House committee wanted its report on its investigation finished before Congress adjourned, and the Judiciary Committee designated Representative George S. Boutwell to write its findings. All papers in the case were turned over to him for his exclusive use. He did not finish until the next last days of the session, and this prevented Representative Rogers, the only dissenting member of the committee, from having access to any of the papers to prepare a minority report. Rogers repeatedly tried to get an order from the House during July to permit him to see the records but he was always blocked by the radical Republican majority. When Boutwell finally finished, Rogers had less than 48 hours to digest the mass of evidence and to prepare his statement taking exception to the majority report. Representative Boutwell dishonestly wrote "*The evidence in possession of the committee connecting Jefferson Davis with the assassination of 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*". He admitted, however, that the government did not have sufficient facts to prove Davis' responsibility, but he hoped that a careful search of the Confederate archives, which had recently been brought to Washington, would supply proof. From these premises, he concluded that Davis was guilty. Representative Rogers' minority report did not come out and accuse Holt and Stanton of subornation of perjury, but he strongly suggested it, and concluded that from the characters of the witnesses and the many evidences of perjury, it could only be concluded that the charge against Davis lacked any honest foundation.

Judge Advocate General Holt tried on July 3, 1866, to provide an explanation for his collaboration with Conover by preparing a careful worded letter to Stanton, which was declared to cover the important phases of their contacts. The report contains seven letters from Conover received during the period of his employment, but Holt failed to include his replies to Conover. It is also evident from Conover's seven letters that there were other letters which Holt did not choose to discover. Although Holt used only the least damaging of Conover's letters, even these are clearly improper and conspiratorial. Holt at the same time withdrew the statement of Conover's eight witnesses as evidence.

The next move was made by Conover. During August he sold two batches of letters to the New York Herald, which published them on August 12 and 24, 1866, together with stinging editorial comments. These letters were reprinted by many other leading newspapers all about the country. Five of the letters were from minor accomplices, two were from Holt, and one was a copy of Conover's June 8 letter to Patten. Holt could now sue for libel if the charges made by the Herald were false, but he did not sue. On

September 4, 1866, Holt published his reply in the form of the first edition of a pamphlet with the title of "*Vindication of Judge Advocate General Holt from the Foul Slanders of traitors, their abettors, and sympathizers, acting in the interest of Jefferson Davis*". He claimed that every step taken had been innocent, done with Secretary Stanton's prior knowledge and approval, and that the depositions as taken had been revealed to the President and his Cabinet.

In fact, they had all been imposed upon, he claimed. On September 11th, the hard-pressed Holt asked for a military court of inquiry. The following day Conover sold three more letters to the New York Herald, which published them and a long and critical editorial on September 21st. Holt made personal calls on several Cabinet members, demanding either a military court of inquiry or an endorsement by the administration. They reported to the Cabinet that Holt was "*under intense personal excitement*".

Secretary of the Navy, Gideon Welles, advised that if Holt felt he had been libeled, the civil courts were open to him for redress. But Holt would not sue. On November 24th, Holt published his second "Vindication" pamphlet. It merely took notice of later events, claiming that the latest Herald letters were false and including the latest depositions of Campbell and Snelvel, along with several testimonial letters from Radical Republican members of the House Judiciary Committee. Holt's request for a military court of inquiry was refused. Stanton informed him that the President "*deems it unnecessary for your vindication*", a mere repetition of Stanton's endorsement on Holt's written request. The published diaries of Navy Secretary Welles and of Interior Secretary Browning show that the refusal was not due to any special confidence of Johnson in Holt. Conover could not be allowed to remain at large, and in November he was indicted for perjury in the District of Columbia. He was tried, and on the testimony of Campbell and Snelvel, he was convicted in February 1867 and sentenced to ten years imprisonment. For some reasons he was kept in the Washington jail for six months before being removed to the penitentiary. In jail he led an eventful life. In fact, even before his conviction, Conover began to seek a presidential pardon, claiming that he was only a tool of high government officials who made him the goat when they acted faced with public exposure. The next step for Conover was a secret agreement with Representative J. M. Ashley of Ohio and Benjamin F. Butler of Massachusetts to produce evidence linking President Andrew Johnson with the assassination plot. In return for this evidence, to be secretly placed in their hands, they were to obtain Conover's pardon from President Johnson.

During the summer of 1867, Conover wrote out the desired depositions and had prospective witnesses he had somehow obtained memorize them. These witnesses were presented to Ashley and Butler, but he cagily would not let the depositions be taken until after his pardon was secured from Johnson. Ashley and Butler actually obtained letters from key individuals urging a pardon for Conover, and they presented them to the President on July 26, 1867, the same day that the Washington court refused a petition by Conover for a suspended sentence. Conover suspiciously concluded that his two new friends had gone back on him and failed to keep their promise, so he wrote a long letter to President Johnson, giving the details of the agreement with Ashley and Butler, enclosing four letters from Ashley in regard to the plan, a letter from the clerk of the House Judiciary Committee and a sample of the memoranda he had prepared for his witnesses against Johnson. Although the President had known that there was plotting against him, he was thoroughly shocked by Conover's letter and he caused the publication of Conover's letter and enclosures in the newspapers on August 20, 1867, together with the petitions for Conover's pardon.

One of the petitioners for pardon was Holt. On August 15, the series of affidavits was published in the papers attempting to show that accomplices of Conover had attempted to pay various accomplices to make false statements implicating Holt in the claimed attempts by Conover to aid Jefferson Davis. Holt denied that he had anything to do with the publication of these affidavits, although he noted that they did support his contentions in his “indication” pamphlets. Navy Secretary Welles wrote in his diary that he believed their publication was with Holt’s consent, if not at his instigation.

At about this time President Johnson learned for the first time how Holt and Stanton had deceived him in regard to the death sentence of Mrs. Surratt by concealing from him the recommendation of five of the nine judges for clemency. This came to light as a result of the trial of her son, John H. Surratt, in a civil, not a military court. Young Surratt’s pompous prosecutor, Edward Pierrepont, seeking to nail down the propriety of the execution of Surratt’s mother, emphasized that the trial record was reviewed by President Johnson, who ordered her execution. He threw the trial records on the table and invited the defense to read it. It bore the title “*Formal Brief Review of the Trial of the Conspirators*”. The newspaper reporters got a chance to see it, and they saw, attached to the end of the report, a half sheet of paper on which a majority of the military court had requested clemency for Mrs. Surratt from the President. The next day’s papers carried the news that a majority of Mrs. Surratt’s judges had not been convinced of her guilty, that five of the nine judges had asked for clemency, but that President Johnson had mercilessly ordered her execution.

When Andrew Johnson read this in the newspapers on Sunday, August 4, he was incensed. Early on Monday morning he sent a messenger with an order for Stanton to come at once to the President with the official trial report in hand. He sent such a messenger three times, and on the third demand, Stanton sent an office subordinate with the report, but he himself did not dare face Andrew Johnson. Johnson stared in disbelief at the official record, including the clemency recommendation, which he was seeing for the first time. The records when originally shown to the President had been handled by Judge Advocate General Holt. If the clemency recommendation was attached, as it now was, it was so affixed as to permit turning through the record without its coming into sight. It was detachable, and it may not have been attached at the time of the conference. In either case, this makes Holt clearly guilty of the murder of Mrs. Surratt, even apart from the false evidence and the questionable evidence and methods he knowingly used at her trial.

On the same day that President Johnson forced Stanton to send him the record on which he saw for the first time the clemency recommendation, August 5, 1867, he addressed the following letter to Stanton : “*Mr. Edwin M. Stanton, Sir, Public considerations of a high character constrain me to say that your resignation as Secretary of War will be accepted. Andrew Johnson, President of the United States*”.

The removal of Stanton by Johnson was effected in contravention of a law passed by Congress to forbid the removal of such an appointed official by the President, and it was for violation of this law that Johnson was impeached by the House and tried by the Senate. As you know, Johnson escaped by only one vote the necessary two-thirds vote in the Senate for conviction.

The criminality of Holt seems too obvious to require any comment. As to Secretary of War Stanton, I will close my comments by quoting from the Mississippi Valley Historical Review article by Attorney Seymour J. Frank, who says in regard to Stanton “... 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 Fort Monroë instead of 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"*. 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 court 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 office to be used and the enormous sums of public funds to be squandered, he was in reality abetting 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 A. 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"*.

I might add that it still galls me to this day when I reflect that it was this vicious scoundrel Stanton who is the man responsible for the slogan which appears on all of our American coins and paper money - *"In God We trust"*. If there was ever a worse hypocrite, I don't know his name !

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