Official Records
Series II Volume VIII

prisoners is without foundation. Correspondents are not allowed inside the fort. They gather rumors from enlisted men and citizens outside.

I am, general, very respectfully, your obedient servant,

NELSON A. MILES,
Major-General, U. S. Volunteers.

WASHINGTON, D. C., *January 13, 1866.*

Major-General MILES, *Commanding, Fort Monroe:*

Your letter reporting employment of rebel soldiers in Fort Monroe Arsenal received. The Secretary of War orders their instant discharge, and that you attend personally to their discharge and immediate removal beyond limits of the public ground of Fort Monroe, and that on no account or pretense either they or any one else who has been in rebel service be permitted to be employed in or come inside of the limits of your post. Order Colonel Baylor to leave the arsenal in charge of the next officer and to proceed by first conveyance to this city and report in person to the Adjutant-General. Report receipt and execution of this order.

By order of the Secretary of War:

E. D. TOWNSEND,
Assistant Adjutant-General.

FORT MONROE, *January 14, 1866.*

General E. D. TOWNSEND, *Assistant Adjutant-General:*

Your telegram of last night received and acted on. Report will be forwarded by to-morrow's mail.

Very respectfully,

NELSON A. MILES,
Major-General of Volunteers.

HEADQUARTERS DISTRICT OF FORT MONROE,
January 15, 1866.

Bvt. Maj. Gen. E. D. TOWNSEND, *Assistant Adjutant-General:*

GENERAL: I have the honor to report the prisoner Davis as well. Clay is comfortable, although suffering some from asthma. No mail was sent yesterday because of there being no communication between Baltimore and this place on Sundays. I have the honor also to report that all the employés in the arsenal at this point have been discharged and removed beyond the limits of the public ground.

I am, general, most respectfully, your obedient servant,

NELSON A. MILES,
Major-General, U. S. Volunteers, Commanding.

WAR DEPARTMENT, BUREAU OF MILITARY JUSTICE,
Washington, D. C., January 18, 1866.

Hon. E. M. STANTON, *Secretary of War:*

SIR: In compliance with the resolution of the House of Representatives of the 10th instant, referred by you to me for report, I have the honor to submit as follows:

In this resolution the Executive is requested to communicate to the House, if not incompatible with the public interests, such reports,

among others, as have been made by this Bureau "as to the grounds, facts, or accusations upon which Jefferson Davis. Clement C. Clay, jr., Stephen R. Mallory, and David L. Yulee, or either of them, are held in confinement." In regard to the case of Davis, I have first to report that it is understood he is held imprisoned by the Government upon a charge of treason, committed in many of the States of the Union through the operations of his armies, but that the disposition of this charge has been in no manner committed to this Bureau. In the investigation, however, of the charge of his complicity in the assassination of President Lincoln it has been for some time engaged.

On May 4 [2*] last a proclamation was issued by the President in which it was set forth that it appeared from evidence in the possession of the Government that the murder of President Lincoln had been "incited, concerted, and procured by and between" Davis and other persons named, and in which, to the end that justice might be done, a reward of $100,000 was offered for his arrest within the limits of the United States, so that he could be brought to trial, as well as rewards for the arrest, with the same view, of sundry other of his alleged co-conspirators. Within a short period after the issuing of this proclamation he was captured by a detachment of U. S. troops, and was thereupon committed to imprisonment at the military post at which he is still confined. It is understood, therefore, that it is upon the charge set forth in the President's proclamation of May last, as well as upon the charge before alluded to, that he is now held in military custody. Since his arrest, indeed, several of his alleged accomplices in the assassination have been brought to trial therefor before a military commission composed of officers of high rank and reputation in the service; and this commission, after a very patient and thorough examination of testimony, not only convicted the accused and sentenced them to death or to a confinement in the penitentiary, but arrived also at the deliberate judgment and so declared that Davis was directly implicated in their crime, and guilty, with them, of the murder of the President, and the attempted or proposed murders of other chief officers of the Government. Of the facts upon which is based the charge against Davis of complicity in the assassination of President Lincoln no report has heretofore been presented by me other than one of a verbal character, consisting of an exhibition to yourself and the President of certain depositions, with such explanatory remarks as were thought proper to be made. But believing it to be within the scope of the resolution of the House of Representatives, if not required by its very language, to present such points of the testimony in the possession of the Government as will indicate truly its character and force, I have now the honor to submit the following statements:

From published articles in the newspapers of the South, as well as from official communications recently discovered among the archives of the so-called Southern Confederacy, and from the testimony given upon the late trial of the conspirators, it is to be inferred that the project of an assassination of the heads of this Government was, during the continuance of the rebellion, entertained and frequently proposed among the enemy, and especially among those who constituted the highest administrative circle at Richmond. An example of the newspaper articles alluded to is presented, in the course of the testimony specified, in the advertisement of December 1, 1864, in the Selma, Ala., Dispatch, of George W. Gayle, offering for a sum stated to "cause the lives of Abraham Lincoln, William H. Seward, and Andrew Johnson

* See Series I, Vol. XLIX, Part II, p. 566.

to be taken by the 1st of March" following, a publication which seems to have been made and circulated without rebuke from any quarter.* Of the official communications referred to, the first, which is in the form of a letter to Davis from a citizen of Georgia, is dated September 12, 1861, and from that period, indeed, the chiefs of the rebellion appear to have accustomed themselves to look upon the project with interest and approbation. The formal proposition of this character next in date, found among the rebel archives, is that of a non-commissioned officer of the rebel army, who also addresses Davis directly, under date of August 17, 1863. In this letter the writer proposes to "organize a number of select men, not less than 300 to 500, to go into the United States and assassinate the most prominent leaders of our enemies," and indicates by name President Lincoln and honorable Secretary Seward. He represents that he has "made it a point to elicit the opinion of many men upon the subject," and that "most have confidence in its benefits to us." He then goes on to present the arguments in favor of the adoption of the scheme, urging that upon its execution all prominent men in the loyal States will perceive that "their existence is in the utmost peril" if they persist in the attempt to suppress the rebellion, and that such a panic and confusion will at once be produced at the North as to hasten peace and the independence of the South. The writer further details his personal record prior to and during the rebellion, saying, "I was opposed to secession, but am now committed to the death against subjugation or reunion." This paper, as is shown by the official indorsement thereon, was treated by Davis as one proper for consideration, and was referred, by his order, and apparently without scruple or hesitation, to his Secretary of War.

At this point the later communication of a similar character to that noticed of Lieut. W. Alston to Davis may well be adverted to. This letter, found among the records of the rebel Government which were surrendered by Joseph E. Johnston to Major-General Schofield at Charlotte, N. C., in May last, has already been given to the country in the published testimony adduced upon the trial before mentioned. It is addressed to His Excellency the President of the Confederate States of America, and, though without date, was found in a package of letters marked as received from July to December, 1864. The writer, who represents himself as a lieutenant in Duke's command, and as having in the previous June been engaged in a raid under Morgan, proposes to Davis to "rid his country of some of her deadliest enemies by striking at the very heart's blood of those who seek to enchain her in slavery," adding, "I consider nothing dishonorable having such a tendency." He further dilates upon his scheme, describes his recent escape from our lines as a prisoner of war, his flight to Canada, and his being there assisted by J. P. Holcombe (one of the well-known rebel agents in that country) to make his way back to the South through the blockade, and finally commends himself and his proposition to the favor of Davis by representing himself as the son of a member of Congress from Alabama in the years 1849 to 1851. The indorsement upon this communication also shows that it was carefully briefed and formally referred, by the order of Davis, to his chief executive war officer, and that it was marked when received by the Assistant Secretary of War, Campbell, "for attention."

Here, too, may be noticed the letter of W. S. Oldham (a member from Texas of the so-called Confederate Senate) to Davis found among the

* See Christensen to Smith, Series I, Vol. XLIX, Part II, p. 866.

official papers in the Capitol at Richmond shortly after its capture, and published with the testimony upon the trial referred to. In this letter the writer, after alluding to a recent conference with Davis, at which the subject of burning our towns, cities, and shipping had been freely considered and discussed, goes on to enforce the practicability of the scheme, in which he with Professor McCulloh, General Harris, and others were interested, of the wholesale destruction not only of the property of the United States, but of private property as well as of human life, both at sea and on land, by means of a combustible material carefully constructed for that purpose. The letter concludes by urging it upon Davis to have an interview with Harris, who, it is thought, will be able to convince the latter of the entire feasibility of the project. It cannot escape observation that so appalling seemed this proposal that, with all the demoralization which the rebellion had wrought, it was still feared that men could not be found sufficiently fiendish to undertake the execution of such a programme of crime; and hence the suggestion made, and pressed upon Davis by Oldham, that so ingeniously had McCulloh arranged the combustibles that they could be used not only, to quote the terms of the letter, "without exposing the party using them to the least danger of detection whatever," but that "the work might be done by agents, and in most cases by persons ignorant of the facts and therefore innocent agents." It is difficult to conceive of a more diabolical proposition than that presented by this letter, involving as it did all the elements of assassination, and contemplating upon a scale probably without a parallel in the history of the race the murderous sacrifice of the lives of unarmed non-combatants, whether found in their homes upon land or beyond the reach of succor in ships at sea. But upon this proposition is indorsed, in the handwriting of Davis himself and over his own initials, a direction to his Secretary of State to "see Harris and learn what plan he has for overcoming the difficulty heretofore experienced;" thus evidently referring to the attempt which had recently been made by the rebel agents, Kennedy and others, to burn at night the city of New York, but which attempt had failed from the defective character of the materials employed. The unhesitating and confident manner in which proposals of this class are perceived to have been addressed to the head of the rebellion, in connection with the absence of all discussions as to their criminality, and the earnestness with which their practicability was urged as a ground for their acceptance, while it evinces the fact that the idea of assassination as a mode of warfare was widespread in the South, indicates also the general conviction that such schemes as those thus advanced were favored by Davis. And the action of the latter, in testing the feasibility of these schemes by giving them the direction described, can, it is believed, leave no doubt as to the spirit which actuated these references. When King Pyrrhus, in the prosecution of an unprovoked war, was laying waste the territory of Rome, his physician secretly offered to Fabricius, the Roman Consul, then in command of the armies of the Republic, to take the life of the King by poison, provided a proper compensation should be made to him for the infamous service. Fabricius, however, instead of referring the matter for consideration or for inquiry whether all difficulties in the way had been overcome, spurned the atrocious proposal, and in a brief note, as simple as it was morally grand in its terms, addressed by himself and colleague to Pyrrhus, he informed him of the offer, and placed the letter containing it in his hands, and added: "You will see by this letter, which was sent to us, that you are at war with men of virtue and honor, and trust knaves and villains." The result was that the traitor and would-be

assassin was seized and punished. So when Earl St. Vincent, who was Admiral Jervis, had, while in the naval service of England, a proposal made to him for the assassination of Napoleon Bonaparte, then at war with his country, he made this memorable reply: "Lord St. Vincent has not words to express the detestation in which he holds an assassin." The incident will be found recorded at page 204 of second volume of Tucker's Memoirs of that nobleman, who honored alike himself and human nature by the utterance cited.

The contrast between the acts and impulses of the historical personages thus instanced, in evincing their detestation of the revolting propositions described, and those of Davis in coolly entertaining and considering as ordinary matters of business, even more horrible schemes, is too striking to need comment. But the animus of his proceedings on the occasions referred to finds its fullest illustration in the important testimony which I am about to detail of the direct and immediate part borne by him as a chief conspirator in assassination. It was in the summer of 1863 that the designs entertained by leading rebels against the person and the life of President Lincoln appear to have taken definite form. The scheme then resolved upon was, not to murder the President at Washington, but by a *coup de main* to seize him and transport him within the rebel lines, with the understanding, however, that if an attempt were made to rescue him his life should be at once taken. The full knowledge and approval of this scheme, known in rebel circles as the kidnaping plot, on the part of Davis, and the immediate direction of it which he assumed, are set forth in the deposition of a witness taken by me at this Bureau on the 23d of November last.* This witness, whose statements may be fully relied upon, was, as he represents at the time specified, in the service of the rebel General Winder, at Richmond, and had been informed by the latter of the plot in question, the execution of which had just then been determined upon. Presently afterward he encountered at a drinking saloon in Richmond the son of a leading rebel, who, being in a drunken and excited condition, was declaring in the presence of a crowd of persons the details of the pending scheme of crime, and asserting, to quote the language of the deposition—

That there was a plot laid to kidnap or kill the Yankee President, and that they would have him at Richmond inside of a month to split the wood and to cook the Yankee officers' grub in Libby Prison.

The witness at once arrested the speaker, placed him in confinement, and reported the circumstance to Winder. When Davis heard of this arrest of the son, as it is expressed, of his particular friend, he sent to Winder for an explanation, and the latter thereupon required the witness to accompany him to the office of Davis. What occurred at this interview is detailed in the deposition as follows

General Winder said to Mr. Davis that I was the man who had made the arrest and would explain to him all about it. In reply to Mr. Davis' questions I then related to him what———(naming the party arrested)—had said and that I had felt it my duty to arrest him. Davis seemed much excited about it, and General Winder said that their plans and schemes would be let out by such damned drunken characters as ——— and that he ought to be hung. By this time several other gentlemen—naming three persons—had come in, having heard what was going on. General Winder continued talking and said that they must bring the "monkey," meaning President Lincoln, soul and body, to Richmond; but that if they could not bring him alive they must bring his scalp. Mr. Davis then spoke up, saying, "Gentlemen, you must capture him and bring him, if possible, to Richmond without hurting a hair of his head, but if an attempt is made to recapture him you must see that he never reaches Washington alive." Mr. ——— (naming one of the three persons) observed that they would require more means than they had to carry out their purposes, to which Mr. Davis answered by saying to General Winder that he must furnish all necessary

*See deposition of Wright, p. 815.

means to carry the plan into execution at once. All the gentlemen present were understood to be engaged in it. I then left Mr. Davis' office, the other persons remaining. Before I did so, however, Mr. Davis said I must arrest certain persons present in the drinking saloon, supposed to be blockade-runners, who had heard Mr. ———'s declarations. I made an attempt to find them, but failed to do so.

The witness then being further interrogated by me as to whether he knew why this scheme was not carried out at the time, replied:

I do not. I left General Winder's service soon afterward, and was not again in a position to be informed of what was going on in connection with the proposed capture.

From this and other testimony it is quite clear that this plan was abandoned only when on the point of being attempted to be carried into effect, and that it was abandoned solely for the reason that it was judged to be attended with too great hazard and uncertainty. And considering the crime which was afterward concerted and perpetrated, it is deemed very apparent that the main feature of this plan, which purported to contemplate only the kidnaping of the President, was a mere pretext employed to draw into the enterprise those who otherwise would have hesitated to engage in it. For it is manifest that Davis must have been aware that an undertaking of the character designed could not have failed to lead to an immediate pursuit and an attempt at rescue; and that thus the very contingency upon the happening of which the life of the President was directed to be taken must necessarily have occurred.

We now approach the part borne by this chief traitor in the actual crime with which closed alike his own career and that of the rebellion. As early as the summer of 1864 Jacob Thompson said to the Government witness, Montgomery, that he had his friends, Confederates, all over the Northern States who were ready and willing to go any lengths to serve the cause of the South; that he could at any time have the tyrant Lincoln and any others of his advisers that he chose put out of his way, and that they would not consider it a crime when done for the cause of the Confederacy. Upon this conversation being repeated to C. C. Clay he fully assented to the declarations of Thompson. The conspiracy, however, in Canada did not assume any definite form until the month of November, when something like a programme for the assassination seems to have been arranged, and a Captain Kennedy appears to have been looked to as the one who was to lead in its execution. This will be more clearly seen by reference to an extract from the deposition to be found cited in the accompanying report made by this Bureau in the case of C. C. Clay. Kennedy was subsequently transferred to the duty of burning the city of New York, which with his associates he soon thereafter attempted, and in the attempt himself soon reached the gallows. Booth seems to have succeeded him as a leader of the band who were actually to do the work of murder. He was in Canada in frequent and intimate association with the principal conspirators, and this position, it is fair to presume from the testimony, was accorded to him by all.

About this time, in consequence of the annoyances to which those who had been engaged in the Saint Albans raid were exposed, from prosecutions and otherwise, some feeling of dissatisfaction with the rebel Government had grown up among the conspirators, and an unwillingness was manifested to enter upon the enterprise of the assassination of the President unless they could have an express and specific authorization for their acts from Richmond, and a satisfactory assurance of complete protection from the rebel authorities. It is true, as detailed by Doctor Merritt, that in February, 1865, George N. Sanders had in his possession and read to his co-conspirators an informal

letter from Davis to the effect that he would approve of whatever measures they might take to accomplish the object desired; but this does not seem to have been regarded as sufficiently formal and explicit. Jacob Thompson, indeed, said to a Government witness about this time that he was in favor of the proposition, but had deferred giving his answer until he had consulted his Government at Richmond, and that he was only waiting their approval. In view of all the circumstances of peril which surrounded this crime, and of the fact that it was to be perpetrated solely in advancement of the cause of the rebellion, the solicitude and apprehensions of the conspirators thus entertained were natural enough. As a result of this state of feeling on their part, John H. Surratt was deputed by them to Richmond to obtain that direct authority which they all felt was necessary to their own safety. It is upon the arrival of Surratt at Richmond that the narrative of the important testimony, not heretofore given to the public, but now to be fully set forth, commences. Upon reaching his destination in the latter part of March last, he fell in with his two former friends, the witnesses whose depositions are about to be presented, to whom he frankly disclosed the business in which he was engaged. At the same time he urged them to unite with him in the prosecution of the plot, and indulging the hope that they would do so, invited them to be present with him at the private interviews which he presently had with Davis, and a high official of his Government to whom Surratt had borne a letter from one of his co-conspirators in Canada. The first of these interviews is thus described by one of the witnesses, whose deposition was taken by me at this Bureau on 4th November last:

After the introduction Davis and ——— (naming the official referred to) withdrew into another room and had a long private conference, as we supposed, together. Mr. ——— (the official named) then called us into the room where Mr. Davis was seated. On entering the room Davis said, "Surratt, there is no necessity for your coming here for any special authority, for the soldiers in the North and in Canada are expected to carry the war to the knife, and they require no more authority to kill Lincoln than they do to kill any Union soldier. Such killing," he said, "would be a legitimate act of warfare; for," said he, "if a couple of Yankees were to come into my house and kill me they would be lauded for it and rewarded as heroes." Surratt answered that the boys in the North were somewhat dissatisfied; that in certain things which they had done, although promised protection by the authorities, yet they felt they had not received it as fully as they were entitled to claim it, and they therefore insisted on having authority for their action directly from the Government itself. Mr. Davis said, "Although there is no necessity for it yet if you wish it the proper papers shall be prepared, and if you will call on ——— (a high official) to-morrow you will receive the papers from him."

The witness then describes the second interview in the following words:

We (meaning Surratt, himself, and the other witness, who now also accompanied them) accordingly called the next day on ——— (naming again the official above alluded to), but found that the papers were not yet ready. Mr. ——— (the official named) proposed that we should go to Mr. Davis' office, which we did. Mr. Davis welcomed us and alleged indisposition as a reason why the papers were not ready, but said if we would sit a few moments they would be brought to us. He retired from the room and in a short time returned with a packet addressed to Colonel Thompson (meaning Jacob Thompson) and handed it to Surratt, telling him to deliver it to Colonel Thompson, then in Canada, and saying that it conferred all the authority he had asked for. At the same time Mr. ——— (the official named) delivered a small package of papers to Surratt. As we were about to leave Mr Davis shook our hands kindly and said he hoped we would all act bravely and succeed, but added that there had been so many attempts at this thing which had failed that he had not much confidence in them. Mr. ——— (the other witness) then remarked, "We must be brave and succeed or we will all dance on nothing." ——— (the official named) answered, "No; if you should fail and are captured, and threatened with punishment, we will notify the Yankee Government that for every one they hang a dozen shall swing the next day." "Besides," he continued, "it is legitimate

warfare, for if the Yankees should steal into one of our camps and murder our soldiers before they could get possession of their arms it would be considered right." Then Mr. Davis repeated his remark of the day previous in regard to Yankees getting into his house and killing him, and said to us that we should be fully protected by the Government. We then left, and the next day Surratt started for the North.

The deposition of the other witness, taken by me at the same time as that of his companion, covers the second interview with Davis, and, though narrating the conversation and proceedings in substantially the same terms as those just recited, may yet be properly submitted in this place, as follows:

From Mr. ———'s (naming the official before alluded to) office we all, that is ——— (the said official), Surratt, ——— (naming the other witness), and myself went to the office of Mr. Davis, the Confederate President, where we were introduced to Mr. Davis by ——— (the said official). A conversation then ensued between Davis, ——— (the said official), and Surratt, but it was conducted in so low a tone that I did not hear it distinctly. When we rose to leave Mr. Davis shook us by the hand and said that we must act bravely and succeed. I replied that we would have to act bravely and succeed, for if we were caught we might have to dance upon nothing. ——— (the said official) said, "No; for if any of us were caught and sentenced to be hung, that they would notify the Yankee Government that they would hang a dozen for one." Mr. Davis then spoke and said that we should be fully protected, and that the enterprise in which we were about to engage was justified by the laws of war. He added, "If two or more Yankees should steal into my house at night and kill me their Government would laud them and reward them as heroes." ——— (the said official) said to us that it was the same as falling on soldiers in their camp and killing them before they could get their arms. While we were conversing papers were delivered by Davis and ——— (the said official) to Surratt. Davis, in handing the packet to Surratt, told him to deliver it to Colonel Thompson, and said that it contained all the authority which had been asked for. I saw Surratt the next day when he was about leaving for the North, but I did not accompany him, but declined doing so.

To these recitals there is only to be added the statement of both witnesses that Surratt informed them that he had been assured by Jacob Thompson that a fund, to quote again from the testimony, "of $200,000 had been set apart for the purpose and would be distributed among the parties engaged in killing the President."

These witnesses, whose personal testimony remains at the command of the Government, are regarded as entirely reliable, and as they are without any motive whatever to misrepresent, it is believed that their statements may be accepted as strictly true. Moreover, they are so strikingly corroborated by the previous testimony exhibited as to make the events to which they testify appear but a logical sequence of those which had preceded them. The interviews which these witnesses recount are stated to have taken place in the latter part of March, and it is added by them that Surratt proceeded to the North immediately afterward. At this point the narrative is taken up by a witness upon the conspiracy trial, who states that Surratt arrived in Washington on April 3; that he had in his possession a considerable quantity of gold; that he remained in Washington but a few hours, in the course of which he stated to the witness that he had just come from Richmond, where he had seen Davis and Benjamin, and that he proceeded on the same evening, April 3, to Montreal, where he arrived on April 6. Another witness upon the same trial testifies that on April 6 or 7 he was present in Jacob Thompson's room at his hotel in Montreal; that Surratt was also present, having just arrived from Richmond with dispatches, among which were communications both from Davis and Benjamin; and that Thompson, laying his hand upon these dispatches, exclaimed, referring to the assent of the rebel authorities to the scheme of assassination, "This makes the thing all right." From the testimony of the witness last before cited we have next the fact that Surratt left Montreal on April 12, and from another witness the fact that on the 14th he was seen about 2 o'clock in

the afternoon walking in the streets of Washington with his spurs on, having doubtless brought dispatches from Thompson to Booth, and that he thereupon disappeared. On the night of that day President Lincoln was murdered, the exclamation of the assassin and the surrounding circumstances making it apparent to all that the crime was committed in the interest of the public enemy and under the inspiration of the chiefs of the rebellion. To the chain of testimony thus indicated may be added yet another link, which is found in the language of Davis when speaking to John C. Breckinridge of the assassination of the President the day after the telegram announcing it had been received. Breckinridge, it seems, professed to deplore it, not as a crime, but simply as a misfortune to the South at the time. A witness, neither whose intelligence nor integrity has been or can be impeached, testifies that to this view expressed by Breckinridge Davis replied as follows:

> Well, General, I don't know; if it were to be done at all it were better that it were well done; and if the same had been done to Andy Johnson—the beast—and to Secretary Stanton the job would then be complete.

These are not the words of sorrow or of surprise but rather of exultation over a tragedy which had been anticipated, mingled with regret that in important particulars the programme of crime, with the details of which the language implies an acquaintance, had failed. Impressed by the force of these proofs, which still exist and are within the reach of the Government, I have entertained the opinion, and frankly expressed it to yourself, that Davis should be put upon his trial before a military court, such as during the past summer tried and condemned his alleged confederates in guilt—such a tribunal alone, in my judgment, having jurisdiction of the offense, which was committed in aid of the rebellion and in violation of the laws and usages of war. My conviction is complete that the punishment of the wretched hirelings of Davis, some of whom have been sent to the gallows and others to the penitentiary, has made no sufficient atonement for this monstrous crime against humanity, which covered our land with mourning, but that, on the contrary, the blood of the President is still calling to us from the ground, not for vengeance, for that his nature was incapable, but for justice—that justice without which no nation can long live in honor or peace or happiness.

The accompanying copies of reports, marked Nos. 1 and 2, heretofore made by this Bureau to the Secretary of War, in the cases of Clement C. Clay and D. L. Yulee and S. R. Mallory, will, it is believed, sufficiently present the grounds both of the arrest of these parties and of their continued detention by the Government. It remains but to note the fact that in this report, as well as in that of the case of Clay, the names of certain witnesses and others have, for obvious reasons growing out of the present state of the investigation, been thought proper to be withheld.

Respectfully submitted.

J. HOLT,
Judge-Advocate-General.

[Inclosure No. 1.]

WAR DEPARTMENT, BUREAU OF MILITARY JUSTICE,
December 6, 1865.

Hon. E. M. STANTON, *Secretary of War:*

SIR: Pursuant to your order I have to present the following report upon the testimony on file in and communicated to this Bureau in regard to the alleged complicity of Clement C. Clay in various crimes against

the laws and usages of war, including the murder of President Lincoln and the attempted assassination of the honorable Secretary of State and other officers of the Government: The formal and deliberate judgment of the military commission, by which the accomplices of Booth were tried and convicted, that this party, with Davis and other rebel leaders, was implicated in the treasonable conspiracy of which the prisoners on trial were the mere instruments, and that the assassination was but the consummation of that conspiracy, has become matter of history. The testimony introduced upon this trial, by which the personal complicity of Clay was clearly made to appear, may be briefly presented in substance as follows: During the summer, fall, and winter of 1864 this rebel was a resident in Canada as one of the accredited agents of the so-called Confederate Government, and, in connection and most intimate association with Jacob Thompson, Cleary, Sanders, and others of its agents, was consequently engaged in maturing treasonable enterprises, in violation of the laws and usages of civilized war. It was in the summer of the year mentioned, the last year of the rebellion, that a reliable and unimpeached witness introduced upon the trial referred to had a conversation with Thompson at Montreal, in which the latter declared that he could at any time have the tyrant Lincoln and any other of his advisers that he chose put out of the way by his friends, Confederates in the States, who were ready and willing to go any lengths to serve the cause of the South; that he would have but to point out the man that he considered in his way and his friends would put him out of it, and not let him know anything about it, if necessary; and that they would not consider it a crime when done for the cause of the Confederacy. This language was shortly after repeated by the witness to Clay, who at once replied, "That is so; we are all devoted to our cause, and ready to go any lengths, to do anything under the sun to serve our cause." Later in the summer Clay was observed by the same witness in confidential conversation at his hotel in Montreal with a man identified on the trial by the witness as Payne, the conspirator, since condemned and executed as having been engaged in the plot of assassination, and having actually attempted the life of Secretary Seward; subsequently on meeting Payne the witness made some inquiry as to who he was, and was answered with hesitation and an evident desire to avoid further inquiry that he was a Canadian, this term being, to quote from the testimony, a common expression among the Confederates there, and applied to those who were in the habit of visiting the States. This answer of Payne was afterward repeated by the witness to Clay, who laughed and said, "That is so; he is a Canadian," adding these most significant words, "We trust him." By another equally reliable witness it is testified that he was present at a meeting of prominent rebels at Montreal in February last, at which a letter from Jefferson Davis was read by Sanders, and exhibited to and read by those present, in which the writer expressed his approbation of whatever measure might be resorted to by these rebels and their associates in Canada to accomplish the object they had in view, meaning, as was well understood by them, the making away with President Lincoln. At this meeting the assassination of the President, Vice-President, members of the Cabinet, and others was freely considered, and the names of Booth, Surratt, and Atzerodt, the two latter by alias, were mentioned by Sanders in connection with the proposed plot. Subsequently in the same month, February, the witness had a conversation with Clay at Toronto, and spoke to the latter about the letter from Davis produced by Sanders at Montreal. Clay, to quote the language of the testimony, appeared to understand perfectly the nature and character of the letter, and on being asked

what he thought about it replied that in his opinion the end would justify the means. Another circumstance going to show Clay's immediate personal association with the assassins is the striking testimony of the witness first referred to, to the effect that he himself saw in the possession of Clay, at his private house at Saint Catherines, and became familiar with, a secret cipher used among the rebels in Canada, which he identified as precisely the same with the cipher found among the effects of Booth after his capture and death. The fullest proof, however, of the direct complicity of Clay in the scheme of assassination is presented by the deposition obtained since the trial of the conspirators of a witness esteemed by this Bureau, before which he was personally examined, as entirely faithful and reliable. This witness* states that during the past year he made the acquaintance in Montreal of Robert C. Kennedy, who was afterward hung for his attempt, in concert with others, to destroy the city of New York by fire. Kennedy having enlisted, or pretended to enlist, this witness and a companion into the rebel military service, approached them in November, 1864, with a proposition to assist him in the assassination of President Lincoln, his Cabinet, and General Grant. He represented, to quote the words of the witness, that as their friend McClellan was beat, they had to put the whole damned Cabinet and Abe Lincoln out of the way, and that we would be rich men if we could do it. Kennedy then conducted the two men to Clay, and the details of the interview which took place may best be presented in the precise language of the deposition, as follows:

He (Kennedy) fetched us into the Queen's Hotel, Toronto, where were McDonald, Cleary, and C. C. Clay. The four went into a separate room by themselves, where they staid probably three-quarters of an hour, leaving myself and my friend outside. When they came out Mr. C. C. Clay approached me and said (calling me by name): "How do you do?" He said he supposed we were going to assist in the Washington affair, addressing himself to me and my friend together. Captain Kennedy said to Clay: "He (alluding to me) is the man to lay Stanton out." Clay said: "Boys, it is a very risky job, and furthermore, if you undertake to do it you must take your lives in your own hands." He said to me (calling me by name): "Mr. Stanton is a very big man and if you cannot undertake to do the job you had better not try it." I told him I thought I could do anything in that way I was called upon to do. He said: "If you get back to Canada after the job is completed you will be a rich man. If you happen to fail in the attempt you will swing." Captain Kennedy had previously stated to us in the conversation that we should have $5,000 apiece if we got back from Washington, and that the Confederate Government would give us a good deal more. Clay also said to us: "I am going to leave in a few days and I suppose you want a few dollars till you are ready to start." He then gave us $10 apiece.

The witness also, in answer to the question whether it was the understanding that he and others were to come on to Washington and engage in the assassination, adds:

Yes, sir; Clay gave us $10 apiece to wait until we would be ready to start. We made up our minds to consent to do everything they asked, provided they gave us what they promised, although really it was not our purpose to proceed finally in the assassination.

A few weeks later than this Kennedy, having meanwhile gone to Washington and returned, instructed the witness that he was to have nothing to do with the project of assassination, inasmuch as it was in the hands of men more competent at Washington. The witness then gives the conclusion of his interviews with Kennedy, as follows:

"But," said he, "I have got another scheme for you." We asked him what it was. He said, "To fire the city of New York." I thought in my own mind that New York was a pretty big place to burn. We finally came to the conclusion that we would not go, and when we were going away he said we were a pair of traitors.

* John McGill.

presented. This witness, who had been dispatched by the latter to Washington to sell the clothing referred to, continues his narrative as follows:

On disposing of the trunks I immediately left Washington and went straight through until I got to Hamilton, Canada. In the waiting room there I met Mr. Holcombe and Mr. Clement C. Clay. They both rose, shook hands with me, and congratulated me on my safe return and upon my making a fortune. They told me I should be a gentleman for the future, instead of a workingman and a mechanic. They seemed perfectly to understand the business in which I had been engaged. Mr. Holcombe told me that Doctor Blackburn was at the Doneganna Hotel, in Montreal, and that I had better telegraph to him stating that I had returned.

It is conceived that no verbal admissions on his part, however distinct, could more clearly fix upon Clay a connection with the crime of Blackburn than his deportment on the occasion referred to. Such demonstrations as those described toward an obscure individual and hireling from a well known accredited agent of the Southern Confederacy in a foreign country are susceptible of but a single construction, and one which must be deduced by every reasoning mind.

In concluding this review it remains to advert to but one other item of testimony, which illustrates the treacherous and clandestine nature of the machinations in which Clay was constantly engaged in Canada, viz, that he frequently resorted to an alias to conceal his true name and position, being known at different times by the names of Hope, Tracey, and Lacey. This circumstance of secrecy is indeed one which contributes to invest his proceedings under all the circumstances with a character altogether different from that which distinguishes the class of offensive acts held legitimate in war. In connection with the testimony in this case as thus presented may be noticed the assertions of Clay in his recent letter to the Secretary of War that at the date of the assassination he had been absent from Canada nearly six months, and had never known or heard of Booth or either of those charged as immediate accomplices and had not to his knowledge ever seen him or either of them. Either these declarations are utterly false or the body of testimony of all the witnesses who have been enumerated and of others not herein alluded to must be wholly discredited. But in view of the known unexceptionable character of the principal witnesses and the character for reliability and disinterestedness sustained under severe tests by others, as well as of the fact that the statements of all, although personally unknown to each other, are found to harmonize, the latter conclusion is, it is conceived, impossible to be adopted; and the former must, it is submitted, remain as the judgment of the Department upon the communication referred to. It is to be added upon the single point of the duration of his stay in Canada that it is declared by two unimpeached witnesses that he was seen by them in Canada in February last, and as late as on or about the 12th or 13th of that month; and the place, and indeed the hotel, at which he was seen and conversed with are specified. But if his own statement be credited he must have permanently left Canada in or about the month of October, 1864. It may be said that this Bureau has now no doubt that it will be enabled, by means of abundant additional witnesses, to fix the term of Clay's stay in Canada even more precisely than it has already been made to appear.

This strong assurance of further proof in the case, in connection with the fact of the recent deposition of the altogether new witness above cited, and the expectation that that of his companion will be presently obtained, goes to indicate that the employés of and sympathizers with the late leaders of the rebellion in Canada are becoming so far emancipated

from the influence of their superiors as to venture to come forward and declare the truth. But up to a recent period it has been a matter of no little difficulty to induce these parties to voluntarily offer their testimony in these cases, and it is clear that the Government can be charged with no laches in not sooner instituting judicial proceedings in the instance of Clay. In consideration, however, of all the testimony in the possession of the Government, as well as that believed to be within its reach, it is concluded that but little further delay will be necessary before the case may be prepared for trial. It is therefore advised by this Bureau that as soon as such preparations shall be completed this party be brought before a military commission upon charges, not only of complicity in the plot of assassination, but also of violation of the laws of war, in authorizing and directing guerrilla raids and the burning of cities, and in promoting the introduction of pestilence into our territory. These latter acts, indeed, established as they are, not only by the evidence of others, but in part by his own written declarations, are of themselves proof that in prosecuting war upon his country he had reached a depth of guilt which fully prepared him for participation in the culminating crime of the war. It has been shown that he exulted in the monstrous attempt to spread the yellow fever in this city, through trunks of infected clothing brought here and disposed of by an agent of the rebellion; and it has been further shown that he calmly contemplated and prepared for the destruction at night, by the torch, of towns and cities in the loyal States, thus seeking to doom to certain and agonizing death thousands of innocent and unoffending citizens, among them the aged and infirm, with women and children, lying in their beds in the helplessness of unconscious sleep. Can it be supposed that a man who had done all this in the interests of the rebellion would hesitate to take any single life in his way, even though it should be the life of the President of the United States? The probability indeed is, that in comparison with the crimes he had already committed he regarded this as but a venial offense. It may therefore be safely assumed that the charge against Clement C. Clay of having incited the assassination of the President is relieved of all improbability by his previous history and criminal surroundings. Should these conclusions be approved and the trial of Clay be at the proper time ordered it is conceived that by this proceeding the Government will but respond to those claims of public justice which are deemed to arise out of the testimony herein presented.

J. HOLT,
Judge-Advocate-General.

JANUARY 18, 1866.

Since the foregoing was prepared the depositions of four witnesses have been taken at this Bureau, by which it is conclusively proved that Clay was in Canada during the months of January and February, 1865, and also within a few days after the assassination of the President. We have thus the oaths of six witnesses, whose testimony is in direct contradiction to the audacious declarations of Clay in his application for clemency addressed to the President, that at the date of the assassination he had been absent from Canada nearly six months. This falsehood must, it is believed, be accepted by the Government, as it clearly would be by the law, as one of the most striking indications of this man's guilt, the consciousness of which on his part could alone have prompted its utterance.

J. HOLT,
Judge-Advocate-General.