The War of the Rebellion
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GENERAL COURT-MARTIAL ORDERS, No. 356.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE, *Washington, July 5, 1865.*

I. Before a military commission which convened at Washington, D. C., May 9, 1865, pursuant to paragraph 4 of Special Orders, No. 211, dated May 6, 1865, and paragraph 91 of Special Orders, No. 216, dated May 9, 1865, War Department, Adjutant General's Office, Washington, and of which Maj. Gen. David Hunter, U. S. Volunteers, is president, were arraigned and tried—

David E. Herold, G. A. Atzerodt, Lewis Payne, Mary E. Surratt, Michael O'Laughlin, Edward Spangler, Samuel Arnold, and Samuel A. Mudd.

CHARGE I: For maliciously, unlawfully, and traitorously, and in aid of the existing armed rebellion against the United States of America, on or before the 6th day of March, A. D. 1865, and on divers other days between that day and the 15th day of April, A. D. 1865, combining, confederating, and conspiring, together with one John H. Surratt, John Wilkes Booth, Jefferson Davis, George N. Sanders, Beverly Tucker, Jacob Thompson, William C. Cleary, Clement C. Clay, George Harper, George Young, and others unknown, to kill and murder, within the Military Department of Washington, and within the fortified and intrenched lines thereof, Abraham Lincoln, late, and at the time of said combining, confederating, and conspiring, President of the United States of America and Commander-in-Chief of the Army and Navy thereof; Andrew Johnson, now Vice-President of the United States aforesaid; William H. Seward, Secretary of State of the United States aforesaid, and Ulysses S. Grant, lieutenant-general of the Army of the United States aforesaid, then in command of the Armies of the United States, under the direction of the said Abraham Lincoln; and in pursuance of and in prosecuting said malicious, unlawful, and traitorous conspiracy aforesaid, and in aid of said rebellion, afterward, to wit, on the 14th day of April, A. D. 1865, within the Military Department of Washington aforesaid, and within the fortified and intrenched lines of said military department, together with said John Wilkes Booth and John H. Surratt, maliciously, unlawfully, and traitorously murdering the said Abraham Lincoln, then President of the United States and Commander-in-Chief of the Army and Navy of the United States, as aforesaid; and maliciously, unlawfully, and traitorously assaulting, with intent to kill and murder, the said William H. Seward, then Secretary of State of the United States, as aforesaid; and lying in wait, with intent maliciously, unlawfully, and traitorously, to kill and murder the said Andrew Johnson, then being Vice-President of the United States; and the said Ulysses S. Grant, then being lieutenant-general and in command of the Armies of the United States, as aforesaid.

Specification 1.—In this, that they, the said David E. Herold, Edward Spangler, Lewis Payne, Michael O'Laughlin, Samuel Arnold, Mary E. Surratt, George A. Atzerodt, and Samuel A. Mudd, together with the said John H. Surratt and John Wilkes Booth, incited and encouraged thereunto by Jefferson Davis, George N. Sanders, Beverly Tucker, Jacob Thompson, William C. Cleary, Clement C. Clay, George Harper, George Young, and others unknown, citizens of the United States aforesaid, and who were then engaged in armed rebellion against the United States of America, within the limits thereof, did, in aid of said armed rebellion, on or before the 6th day of March, A. D. 1865, and on divers other days and times between that day and the 15th day of April, A. D. 1865, combine, confederate, and conspire together at Washington City, within the Military Department of Washington, and within the intrenched fortifications and military lines of the said United States, there being, unlawfully, maliciously, and traitorously to kill and murder Abraham Lincoln, then President of the United States aforesaid, and Commander-in-Chief of the Army and Navy thereof; and unlawfully, maliciously, and traitorously to kill and murder Andrew Johnson, now Vice-President of the said United States, upon whom, on the death of said Abraham Lincoln, after the 4th day of March, A. D. 1865, the office of President of the said United States and Commander-in-Chief of the Army and Navy thereof would devolve; and to unlawfully, maliciously, and traitorously kill and murder Ulysses S. Grant, then lieutenant-general, and, under the direction of the said Abraham Lincoln, in command of the Armies of the United States aforesaid; and unlawfully, maliciously, and traitorously to kill and murder William H. Seward, then Secretary of State of the United States aforesaid, whose duty it was by law, upon the death of said President and Vice-President of the United States aforesaid, to cause an election to be held for electors of President of the United States—the conspirators aforesaid designing and intending by the killing and murder of the said Abraham Lincoln, Andrew Johnson, Ulysses S. Grant, and

William H. Seward, as aforesaid, to deprive the Army and Navy of the said United States of a constitutional commander-in-chief; and to deprive the Armies of the United States of their lawful commander; and to prevent a lawful election of President and Vice-President of the United States aforesaid; and by the means aforesaid to aid and comfort the insurgents engaged in armed rebellion against the said United States, as aforesaid, and thereby to aid in the subversion and overthrow of the Constitution and laws of the said United States.

And being so combined, confederated, and conspiring together in the prosecution of said unlawful and traitorous conspiracy on the night of the 14th day of April, A. D. 1865, at the hour of about 10 o'clock and 15 minutes p. m., at Ford's Theater, on Tenth street, in the city of Washington, and within the military department and military lines aforesaid, John Wilkes Booth, one of the conspirators aforesaid, in pursuance of said unlawful and traitorous conspiracy, did, then and there, unlawfully, maliciously, and traitorously, and with intent to kill and murder the said Abraham Lincoln, discharge a pistol, then held in the hands of him, the said Booth, the same being then loaded with powder and a leaden ball, against and upon the left and posterior side of the head of the said Abraham Lincoln; and did thereby, then and there, inflict upon him, the said Abraham Lincoln, then President of the said United States and Commander-in-Chief of the Army and Navy thereof, a mortal wound, whereof afterward, to wit, on the 15th day of April, A. D. 1865, at Washington City aforesaid, the said Abraham Lincoln died; and thereby, then and there, and in pursuance of said conspiracy, the said defendants and the said John Wilkes Booth and John H. Surratt did, unlawfully, traitorously, and maliciously, and with the intent to aid the rebellion as aforesaid, kill and murder the said Abraham Lincoln, President of the United States, as aforesaid.

And in further prosecution of the unlawful and traitorous conspiracy aforesaid, and of the murderous and traitorous intent of said conspiracy, the said Edward Spangler, on said 14th day of April, A. D. 1865, at about the same hour of that day, as aforesaid, within said military department and the military lines aforesaid, did aid and assist the said John Wilkes Booth to obtain entrance to the box in said theater in which said Abraham Lincoln was sitting at the time he was assaulted and shot, as aforesaid, by John Wilkes Booth; and also did then and there aid said Booth in barring and obstructing the door of the box of said theater so as to hinder and prevent any assistance to or rescue of the said Abraham Lincoln against the murderous assault of the said John Wilkes Booth, and did aid and abet him in making his escape after the said Abraham Lincoln had been murdered in manner aforesaid.

And in further prosecution of said unlawful, murderous, and traitorous conspiracy, and in pursuance thereof and with the intent, as aforesaid, the said David E. Herold did, on the night of the 14th of April, A. D. 1865, within the military department and military lines aforesaid, aid, abet and assist the said John Wilkes Booth in the killing and murder of the said Abraham Lincoln, and did then and there aid and abet and assist him, the said John Wilkes Booth, in attempting to escape through the military lines aforesaid, and did accompany and assist the said John Wilkes Booth in attempting to conceal himself and escape from justice after killing and murdering said Abraham Lincoln, as aforesaid.

And in further prosecution of said unlawful and traitorous conspiracy, and of the intent thereof, as aforesaid, the said Lewis Payne did, on the same night of the 14th day of April, A. D. 1865, about the same hour of 10 o'clock and 15 minutes p. m., at the city of Washington, and within the military department and the military lines aforesaid, unlawfully and maliciously make an assault upon the said William H. Seward, Secretary of State, as aforesaid, in the dwelling-house and bedchamber of him, the said William H. Seward, and the said Payne did then and there, with a large knife, held in his hand, unlawfully, traitorously, and in pursuance of said conspiracy, strike, stab, cut, and attempt to kill and murder the said William H. Seward, and did thereby, then and there, and with the intent aforesaid, with said knife inflict upon the face and throat of the said William H. Seward divers grievous wounds. And the said Lewis Payne, in further prosecution of said conspiracy, at the same time and place last aforesaid, did attempt, with the knife aforesaid, and a pistol held in his hand, to kill and murder Frederick W. Seward, Augustus H. Seward, Emrick W. Hansell, and George F. Robinson, who were then striving to protect and rescue the said William H. Seward from murder by the said Lewis Payne, and did then and there, with said knife and pistol held in his hands, inflict upon the head of said Frederick W. Seward, and upon the persons of said Augustus H. Seward, Emrick W. Hansell, and George F. Robinson, divers grievous and dangerous wounds with intent, then and there, to kill and murder the said Frederick W. Seward, Augustus H. Seward, Emrick W. Hansell, and George F. Robinson.

And in further prosecution of said conspiracy and its traitorous and murderous designs, the said George A. Atzerodt did, on the night of the 14th of April, A. D. 1865, and about the same hour of the night aforesaid, within the military department and the military lines aforesaid, lie in wait for Andrew Johnson, then Vice-President of

the United States aforesaid, with the intent unlawfully and maliciously to kill and murder him, the said Andrew Johnson.

And in the further prosecution of the conspiracy aforesaid, and of its murderous and treasonable purposes aforesaid, on the nights of the 13th and 14th of April, A. D. 1865, at Washington City, and within the military department and military lines aforesaid, the said Michael O'Laughlin did then and there lie in wait for Ulysses S. Grant, then lieutenant-general and commander of the Armies of the United States, as aforesaid, with intent then and there to kill and murder the said Ulysses S. Grant.

And in further prosecution of said conspiracy, the said Samuel Arnold did, within the military department and military lines aforesaid, on or before the 6th day of March, A. D. 1865, and on divers other days and times between that day and the 15th day of April, A. D. 1865, combine, conspire with, and aid, counsel, abet, comfort, and support, the said John Wilkes Booth, Lewis Payne, George A. Atzerodt, Michael O'Laughlin, and their confederates, in said unlawful, murderous, and traitorous conspiracy and in the execution thereof, as aforesaid.

And in further prosecution of the said conspiracy, Mary E. Surratt did, at Washington City, and within the military department and military lines aforesaid, on or before the 6th day of March, A. D. 1865, and on divers other days and times between that day and the 20th day of April, A. D. 1865, receive, entertain, harbor and conceal, aid and assist the said John Wilkes Booth, David E. Herold, Lewis Payne, John H. Surratt, Michael O'Laughlin, George A. Atzerodt, Samuel Arnold, and their confederates, with knowledge of the murderous and traitorous conspiracy aforesaid, and with intent to aid, abet, and assist them in the execution thereof, and in escaping from justice after the murder of the said Abraham Lincoln, as aforesaid.

And in further prosecution of said conspiracy, the said Samuel A. Mudd did, at Washington City, and within the military department and military lines aforesaid, on or before the 6th day of March, A. D. 1865, and on divers other days and times between that day and the 20th day of April, A. D. 1865, advise, encourage, receive, entertain, harbor and conceal, aid and assist the said John Wilkes Booth, David E. Herold, Lewis Payne, John H. Surratt, Michael O'Laughlin, George A. Atzerodt, Mary E. Surratt, and Samuel Arnold, and their confederates, with knowledge of the murderous and traitorous conspiracy aforesaid, and with intent to aid, abet, and assist them in the execution thereof, and in escaping from justice after the murder of said Abraham Lincoln, in pursuance of said conspiracy in manner aforesaid.

To which charge and specification the accused, David E. Herold, G. A. Atzerodt, Lewis Payne, Mary E. Surratt, Michael O'Laughlin, Edward Spangler, Samuel Arnold, and Samuel A. Mudd, pleaded not guilty.

FINDINGS AND SENTENCES.

1. In the case of David E. Herold, the commission, having maturely considered the evidence adduced, finds the accused as follows:

Of the specification, guilty, except combining, confederating, and conspiring with Edward Spangler; as to which part thereof, not guilty.

Of the charge, guilty, except the words of the charge, that he combined, confederated, and conspired with Edward Spangler; as to which part of said charge, not guilty.

And the commission does, therefore, sentence him, the said David E. Herold, to be hanged by the neck until he be dead, at such time and place as the President of the United States shall direct, two-thirds of the members of the commission concurring therein.

2. In the case of George A. Atzerodt, the commission, having maturely considered the evidence adduced, finds the accused as follows:

Of the specification, guilty, except combining, confederating, and conspiring with Edward Spangler; of this, not guilty.

Of the charge, guilty, except combining, confederating, and conspiring with Edward Spangler; of this, not guilty.

And the commission does, therefore, sentence him, the said George A. Atzerodt, to be hung by the neck until he be dead, at such time and place as the President of the United States shall direct, two-thirds of the members of the commission concurring therein.

3. In the case of Lewis Payne, the commission, having maturely considered the evidence adduced, finds the accused as follows:

Of the specification, guilty, except combining, confederating, and conspiring with Edward Spangler; of this, not guilty.

Of the charge, guilty, except combining, confederating, and conspiring with Edward Spangler; of this, not guilty.

And the commission does, therefore, sentence him, the said Lewis Payne, to be hung by the neck until he be dead, at such time and place as the President of the United States shall direct, two-thirds of the members of the commission concurring therein.

4. In the case of Mary E. Surratt, the commission, having maturely considered the evidence adduced, finds the accused as follows:

Of the specification, guilty, except as to receiving, entertaining, harboring, and concealing Samuel Arnold and Michael O'Laughlin, and except as to combining, confederating, and conspiring with Edward Spangler; of this, not guilty.

Of the charge, guilty, except as to combining, confederating, and conspiring with Edward Spangler; of this, not guilty.

And the commission does, therefore, sentence her, the said Mary E. Surratt, to be hung by the neck until she be dead, at such time and place as the President of the United States shall direct, two-thirds of the members of the commission concurring therein.

5. In the case of Michael O'Laughlin, the commission, having maturely considered the evidence adduced, finds the accused as follows:

Of the specification, guilty, except the words thereof as follows: "And in the further prosecution of the conspiracy aforesaid, and of its murderous and treasonable purposes aforesaid, on the nights of the 13th and 14th of April, A. D. 1865, at Washington City, and within the military department and military lines aforesaid, the said Michael O'Laughlin did then and there lie in wait for Ulysses S. Grant, then lieutenant-general and commander of the Armies of the United States, with intent then and there to kill and murder the said Ulysses S. Grant;" of said words not guilty, and except combining, confederating, and conspiring with Edward Spangler; of this, not guilty.

Of the charge, guilty, except combining, confederating, and conspiring with Edward Spangler; of this, not guilty.

And the commission does, therefore, sentence him, the said Michael O'Laughlin, to be imprisoned at hard labor for life at such penitentiary as the President of the United States shall designate.

6. In the case of Edward Spangler, the commission, having maturely considered the evidence adduced, finds the accused as follows:

Of the specification, not guilty, except as to the words, "The said Edward Spangler, on said 14th day of April, A. D. 1865, at about the same hour of that day, as aforesaid, within said military department and the military lines aforesaid, did aid and abet him (meaning John Wilkes Booth) in making his escape after the said Abraham Lincoln had been murdered in manner aforesaid;" and of these words, guilty.

Of the charge, not guilty, but guilty of having feloniously and traitorously aided and abetted John Wilkes Booth in making his escape after having killed and murdered Abraham Lincoln, President of the United States, he, the said Edward Spangler, at the time of aiding and abetting, as aforesaid, well knowing that the said Abraham Lincoln, President, as aforesaid, had been murdered by the said John Wilkes Booth, as aforesaid.

And the commission does, therefore, sentence him, the said Edward Spangler, to be confined at hard labor for the period of six years, at such penitentiary as the President of the United States shall designate.

7. In the case of Samuel Arnold, the commission, having maturely considered the evidence adduced, finds the accused as follows:

Of the specification, guilty, except combining, confederating, and conspiring with Edward Spangler; of this, not guilty.

Of the charge, guilty, except combining, confederating, and conspiring with Edward Spangler; of this, not guilty.

And the commission does, therefore, sentence him, the said Samuel Arnold, to be imprisoned at hard labor for life, at such penitentiary as the President of the United States shall designate.

8. In the case of Samuel A. Mudd, the commission, having maturely considered the evidence adduced, finds the accused as follows:

Of the specification, guilty, except combining, confederating, and conspiring with Edward Spangler; of this, not guilty; and except receiving, entertaining, harboring, and concealing Lewis Payne, John H. Surratt, Michael O'Laughlin, George A. Atzerodt, Mary E. Surratt, and Samuel Arnold; of this, not guilty.

Of the charge, guilty, except combining, confederating, and conspiring with Edward Spangler; of this, not guilty.

And the commission does, therefore, sentence him, the said Samuel A. Mudd, to be imprisoned at hard labor for life, at such penitentiary as the President of the United States shall designate.

II. The proceedings, findings, and sentences in the foregoing cases having been submitted to the President of the United States, the following are his orders:

EXECUTIVE MANSION, *July 5, 1865.*

The foregoing sentences in the cases of David E. Herold, George A. Atzerodt, Lewis Payne, Michael O'Laughlin, Edward Spangler, Samuel Arnold, Mary E. Sur-

ratt, and Samuel A. Mudd are hereby approved, and it is ordered that the sentences in the cases of David E. Herold, G. A. Atzerodt, Lewis Payne, and Mary E. Surratt be carried into execution by the proper military authority, under the direction of the Secretary of War, on the 7th day of July, 1865, between the hours of 10 o'clock a. m. and 2 o'clock p. m. of that day. It is further ordered that the prisoners, Samuel Arnold, Samuel A. Mudd, Edward Spangler, and Michael O'Laughlin, be confined at hard labor in the penitentiary at Albany, N. Y., during the period designated in their respective sentences.

ANDREW JOHNSON,
President.

III. Maj. Gen. W. S. Hancock, U. S. Volunteers, commanding Middle Military Division, is commanded to cause the foregoing sentences in the cases of David E. Herold, G. A. Atzerodt, Lewis Payne, and Mary E. Surratt to be duly executed in accordance with the President's order.

EXECUTIVE MANSION, *July 15, 1865.*

IV. The Executive Order, dated July 5, 1865, approving the sentences in the cases of Samuel Arnold, Samuel A. Mudd, Edward Spangler, and Michael O'Laughlin is hereby modified so as to direct that the said Arnold, Mudd, Spangler, and O'Laughlin be confined at hard labor in the military prison at Dry Tortugas, Fla., during the period designated in their respective sentences. The Adjutant-General of the Army is directed to issue orders for the said prisoners to be transported to the Dry Tortugas, and to be confined there accordingly.

ANDREW JOHNSON,
President.

V. Maj. Gen. W. S. Hancock, U. S. Volunteers, commanding Middle Military Division, is commanded to send the prisoners Samuel Arnold, Samuel A. Mudd, Edward Spangler, and Michael O'Laughlin, under charge of a commissioned officer, with a sufficient guard, to the Dry Tortugas, Fla., where they will be delivered to the commanding officer of the post, who is hereby ordered to confine the said Arnold, Mudd, Spangler, and O'Laughlin at hard labor during the periods designated in their respective sentences.

VI. The military commission of which Maj. Gen. David Hunter is president is hereby dissolved.*

By command of the President of the United States:

E. D. TOWNSEND,
Assistant Adjutant-General.

OFFICE COMMISSARY-GENERAL OF PRISONERS,
Washington, D. C., July 5, 1865.

Lieut. Gen. U. S. GRANT,
Commanding Armies of the United States, Washington, D. C.:

GENERAL: I have the honor to report that, except a few sick who have been transferred to the post hospitals, all prisoners of war have been released from the following-named military prisons, viz: Point

* By authority of the Secretary of War the record of this commission was edited by Benn Pitman, recorder to the commission, and published by Moore, Wilstach & Baldwin, Cincinnati, 1865, under the title "The Assassination of President Lincoln and the Trial of the Conspirators."

Lookout, Newport News, Hart's Island, Elmira, N. Y., Camp Chase, near Columbus, Ohio, Camp Morton, near Indianapolis, Ind., Camp Douglas, near Chicago, Ill., Rock Island, Ill., and the military prison at Alton, Ill., and the forces stationed at these several places as guards to the prisons may now be relieved.

There are now but 150 rebel officers confined at Johnson's Island, and if it is thought advisable they may be transferred to Fort Warren or Fort Delaware, by which arrangement the guard can be relieved and the island may be returned to its owner; but I would again respectfully suggest that, inasmuch as there are extensive buildings and other works on the island belonging to the Government, the island be not given up until it is decided whether it will not be required for a naval depot, for which its situation in a commodious bay at the southern end of Lake Erie seems to fit it in an eminent degree.

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

W. HOFFMAN,

Bvt. Brig. Gen., U. S. Army, Commissary-General of Prisoners.

HILTON HEAD, *July 7, 1865.*

EDWIN M. STANTON, *Secretary of War:*

I have received General Townsend's telegram of the 2d, conveying your rebuke for my alleged interference with the prisoners ordered by the Department to be confined and for assuming to set aside the orders of the Department. There is a grave mistake somewhere. I never received any orders to arrest Mr. Trenholm, nor any dispatch nor letter in which his name was mentioned, nor any reply to my telegram to the Adjutant-General of June 16 notifying him that I had made the arrest. I have never set aside your orders nor knowingly disregarded your wishes.

Q. A. GILLMORE,

Major-General.

HEADQUARTERS DEPOT PRISONERS OF WAR,

Elmira, N. Y., July 8, 1865.

Col. J. R. LEWIS, *Commanding Depot Prisoners of War:*

SIR: I have the honor to submit the following inspection report of the condition of the prisoners of war at this station for the week ending July 8, 1865:

Conduct—good. Cleanliness—very good. Clothing—sufficient. Bedding—abundant. State of quarters—clean, well policed. State of mess-houses—very well policed. State of kitchen—remarkably neat and clean. Food, quality of—good. Food, quantity of—abundant. Water—sufficient. Sinks—in very good order. Police of grounds—very careful. Drainage—good. Police of hospital—excellent. Attendance of sick—excellent. Hospital diet—very good. General health of prisoners—much improved. Vigilance of guard—excellent.

Remarks and suggestions.—I respectfully call the commanding officer's attention to the greatly superior advantages of hospital buildings and grounds in prison camp to the cheerless and otherwise inappropriate character of buildings now in use for general hospital. The great beauty of the grounds and taste in arranging the flowers and walks in the prison camp would add to the invalid's pleasure and chances for