

# FORTY YEARS OF ACTIVE SERVICE

BEING SOME HISTORY OF THE WAR BETWEEN THE CONFEDERACY AND THE  
UNION AND OF THE EVENTS LEADING UP TO IT, WITH REMINISCENCES  
OF THE STRUGGLE AND ACCOUNTS OF THE AUTHOR'S EXPERIENCES  
OF FOUR YEARS FROM PRIVATE TO LIEUTENANT-COLONEL AND  
ACTING COLONEL IN THE CAVALRY OF THE ARMY OF  
NORTHERN VIRGINIA

ALSO

MUCH OF THE HISTORY OF VIRGINIA AND THE NATION  
IN WHICH THE AUTHOR TOOK PART FOR MANY YEARS  
IN POLITICAL CONVENTIONS AND ON THE HUSTINGS AND  
AS LAWYER, MEMBER OF THE LEGISLATURE OF VIR-  
GINIA, JUDGE, MEMBER OF THE HOUSE OF REPRESENTA-  
TIVES OF THE UNITED STATES AND GOVERNOR OF  
VIRGINIA

BY  
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*(Third Thousand)*

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but after various futile sessions a settlement of Virginia's part was effected, and the debt upon which she pays interest was \$26,843,067.87, as of October 1, 1903.

On the first day of January, 1874, I went upon the bench of the County Court of Rockingham County—a court of probate, with jurisdiction of all county matters, cases of unlawful entry and detainer, and the assessment of damages under the right of eminent domain, and original criminal jurisdiction of all cases, except where the penalty was death, in which the accused had the right to elect to be tried in the Circuit Court, but which right was never exercised during my incumbency of six years.

The county being large and populous, my judicial duties were onerous. The terms of the court were monthly and generally lasted two weeks, so that one half of every year was spent by me on the bench. During my six years there were many important and exciting criminal trials—the most trying and anxious ordeals through which a judge can pass.

All classes of criminal cases, from petit larceny to highway robbery, burglary, and homicide were before me, and to act well the part of holding the scales with an even and steady hand was necessarily a source of constant anxiety and perplexity. To prevent bias or prejudice from entering into the mind and heart either for or against the accused kept me communing daily and hourly with my conscience. Being compelled like all *nisi prius* judges to make quick and rapid rulings from the bench, without opportunity in case of doubt to consult authorities, many times made me desire to cast aside the judicial ermine, and yet I retained my position for my full term, through some peculiar fascination of the place.

During my judicial service there were numerous episodes, some of which I think will bear relating.

On a road at the western base of the Blue Ridge range a most atrocious murder was committed. A farmer returning home one evening with his wagon was shot from the wayside and fell dead under his horses. In a little while a passing neighbor found him, and spreading the news others

gathered and the dead man was carried to his home. Suspicion pointed to three persons—the widow, her brother, and another man of bad reputation—as implicated in the murder. They were arrested, but there was no evidence against them, and they were discharged; but the suspicion would not down, and two years after the commission of the crime they were again arrested. At their first hearing they had simply denied any participation in the killing or knowledge as to the murderer.

At their second hearing the man with the bad reputation was not so discreet, and he insisted upon talking, and the more he talked the stronger became the suspicion, and when the hearing was over he had done much to lead himself to the gallows, and he and the widow and brother-in-law were committed to jail to await the action of the grand jury. Detectives were employed and the whole community in which the murderous deed was done was active in following up clues and searching for testimony. Finally the grand jury met and indictments were found against all of them—against the man with the bad reputation, whose name was Anderson Shifflet, as principal, and against the brother-in-law, whose name was Silas Morris, and Louisa Lawson, the widow, as accessories before the fact. In the summer of 1877 they were tried, and in each case the jury with solemn faces returned a verdict, "Guilty as charged in the indictment." This meant death to all, for under the Virginia statutes murder by lying in wait, or by poison, or any other wilful and deliberate murder is punishable by death, and an accessory before the fact suffers the same penalty as the principal.

Shifflet, the principal, was a low, debased creature, with the superstition of a cotton-field negro in the days of slavery, and believed in omens and apparitions and signs. He had been raised amid environments that made him pale and crouch upon the appearance of an ill omen—he could not help it any more than a horse can help trembling at the sight of a camel. During his trial a bird flew into the court hall through an open window and seated itself on a wire stretched across the hall, directly over him. He saw

it, and instantly he turned ghastly pale, his head dropped, and he sank down in his chair perfectly limp. It was one of his ill omens; it meant death to him. He was the most dejected, crushed, and pitiable looking human being I ever saw. In his mind his doom was sealed. Before the bird came he had been bright and seemed to think that he would at least escape the gallows; after it winged its way into the tribunal of justice and lighted just above his head, all animation disappeared, his eye became dull and lifeless, and he gave himself up to the fate which he was sure awaited him. He was convicted as I have said, and was executed; but I am sure none of my readers will think that this little creation in God's inscrutable plan could direct the current of justice or give token of either good or evil to a human being. It has been well said, "Skepticism makes a man mad, and superstition renders a man a fool."

The trials of these cases stand among the celebrated criminal trials of Virginia. As they progressed the developments of the plot to murder Lawson were like turning over the leaves of a terrible novel, in which marital infidelity was being portrayed in its hideous colors, and plans by a woman to rid herself of him to whom she had plighted her faith, pictured in blackest hue. The evidence against Morris and the widow—brother and sister—showed, as found by the jury in each case, that the affections of the wife of Lawson had been alienated from her husband by a young workman on Lawson's farm, and that through the assistance of Morris, her brother, Shifflett had been hired for a paltry sum to murder Lawson, and that the plot had been deeply laid and carried out with the adroitness and cunning of men trained in the art of mysterious murder.

The evidence in the case of Shifflett was absolutely conclusive of his guilt as the principal. As to the justice of his conviction I never entertained the slightest doubt, and in no way did it connect either Morris or the widow with the bloody deed; but the evidence on their trials was entirely in-



dependent of that in the case of the principal, and with their convictions I was not well satisfied.

The star witness was the young workman to whom I have alluded, the admitted guilty lover of Lawson's wife, and who, tiring of her after Lawson's death, discarded her and came forward as a willing witness to testify to admissions by her of guilt, and also of statements and circumstances pointing directly to Morris as an accessory before the fact. He was an untutored mountain fellow, but "as sharp as a steel trap," and as hard to trip as a Texas broncho. He stood the fire of the cross-examination, conducted by able counsel, without a slip or a break, and sustained his reputation for truth by many of his neighbors. The juries believed him and convictions followed.

Motions were made in arrest of judgment and to set aside the verdicts, and were overruled, as it was the province of the jury to consider and weigh the evidence, and they had believed this star witness, and the judge under the law could not set the verdict aside, even if he would have rendered a different verdict if he had been a member of the jury.

In a few days sentences of death were pronounced, and hand in hand brother and sister, in charge of the jailer, were taken back to prison to await the awful day of execution, with only one ray of hope—executive clemency. The sentence of a woman to the gallows had few precedents in the history of criminal jurisprudence in Virginia. Many may have deserved it, but, with the rarest exceptions, Virginia juries had never got to the point of consigning a woman to death by the halter.

So this conviction and sentence created wide-spread interest, and aroused the Governor, the chivalrous James L. Kemper, and he wrote me to give him the facts in the case, which I did. A little while before the day of execution came he respited both convicts. Before that respite expired he wrote me, as near as I can recall his words, as follows: "Can't something be done to save the neck of Mrs. Lawson. She is a woman. I do not want her hung if there is any reasonable ground to prevent it." I replied: "You have all

the facts. I feel as you do and would gladly recommend clemency, if I could do so consistently with my judicial oath. If the evidence was true (and the jury has so held), she is guilty of deliberate, premeditated murder of her husband, and under the law the penalty is death. You have all power, and if you extend clemency I shall never criticise you; but if clemency is extended in the case of the woman, it should be in the case of the man, for the evidence was stronger against her than against him."

A second respite came from the Governor; then soon a letter to me to the effect that the thought of hanging a woman had so wrought upon his feelings as to disturb his slumbers, and in his dreams he could see her dangling in the air, and in her death struggles. I replied substantially as I had previously written him.

In a few days two young men from the neighborhood of the place of murder—strangers to me—came to my office and said to me: "Judge, we want to talk with you about the Lawson murder cases. We want to tell you what we know. We don't know whether it will amount to anything or not."

I told them to proceed. They then related to me conversations they had had with the star witness, the guilty lover of Lawson's wife—startling in their nature and directly contradictory to his testimony on the witness-stand on material points. I sent for the Commonwealth's Attorney, and in his presence they repeated what they had told me. He and I conferred and we both agreed that their statements were very important, and if they had been made in court and before the jury they would have tended to break down the testimony of the star witness and to have induced a different verdict. But who were these young men and what were their characters for truth and veracity? These were questions for inquiry, and the inquiry was undertaken by the Commonwealth's Attorney. Soon he reported that they were of good character and fair repute, and I at once wrote to the Governor recommending executive clemency in both cases—the brother-in-law and widow.

The Governor acted instantly and commuted the sentences to imprisonment for life in the penitentiary, and sent the commutations to the Harrisonburg jail by a member of his staff, a gentleman who had taken great interest in the cases—Captain Charles L. Todd, a prominent and esteemed citizen of Richmond at this time. Thus by the desire of Governor Kemper to avoid, if possible, the hanging of a woman, and his several respites, the lives of these two human beings were saved from death on the scaffold. Time blazed the way, and it has always looked to me as though the hand of God was in their deliverance; that He had induced the two strange young men to come forward and tell their story, they not knowing whether or not it would have any effect upon the question of life or death.

Morris and the widow of the murdered man were conveyed to the penitentiary to serve life sentences, as they had every reason to believe. So far as they could see, nothing else was before them; yet no doubt they hoped some day to breathe again the air of freedom, hear the birds sing, see the flowers blooming, the woodlands in their verdant foliage and the fields bearing their crops, for "hope is the last thing that dies in man."

All these people were mountain people—born and reared at the base or in the gorges and passes of the Blue Ridge, whose beautiful range divides Virginia's Piedmont and Valley sections. The wife of Morris had lived all her life amid the environments of her humble mountain home, uncultured and untutored, but she displayed a fealty to her husband and a nobility of character rarely found even in the most cultured walks of life. She went with her husband to the very gates of the prison, there bade him good-by and heard the heavy hinges creak and the huge bolts shoot into their sockets as the gates closed. Then out into the strange city she went, seeking the home of Captain Todd, who had been the Governor's messenger to convey the tidings of executive clemency. Into this warm and hospitable home she was received, and in it she lived for about eight years, visiting her husband in prison, carrying him food from the table of her

benefactor, whispering words of hope and cheer into his ear as often as the prison rules would permit. With unflinching belief in her husband's innocence she undertook to secure a pardon. She made visit after visit to Rockingham to secure signers to a petition. At first she met with little encouragement, but she persisted.

After three or four visits she secured many signatures, among them several of the jurors. In the meantime the feeling was growing that probably the verdict was wrong, and on her next visit the petition was numerously signed, and on her last visit she obtained the name of the last juror and a large number of the county officials and prominent citizens of the county. Returning to Richmond, with her benefactor, Captain Todd, she went to the Executive Office, laid her petition before the Governor, and made her appeal for the pardon of her husband. The Governor took the matter under advisement, with the result that he not only pardoned her husband, but the widow of the murdered man as well.

So after eight years of prison life, eight years of patient and persistent work, eight years of prayer, weeping and heart-aches, eight years of a wife's loyalty and devotion to a man, felon-clad and from whom the law would have divorced her any day, this untutored but noble woman received the fruition of her labors, and with her pardoned husband returned to the very neighborhood where they had formerly lived and started life anew.

Several years ago I learned they had prospered and were doing well. Morris had conducted himself properly, and was an orderly, law-abiding citizen, and his wife, as she richly deserved, had the respect of everybody.

In concluding my account of these celebrated trials, convictions and sentences, followed by respites, commutations and pardons in the last two, I must refer to a most pathetic scene at the sentencing to death of Mrs. Lawson. During her trial her little son, eight or ten years of age, was constantly by her side. When I came to pronounce the sentence of the law, the most painful duty of my official life, nothing I said seemed to touch her until I made an incidental





allusion to her little son; instantly she threw her arms around him and wept as though her heart would break. It was a most striking exhibition of a mother's love. She had been apparently almost callous—she had nerved herself for the terrible ordeal, but her strength and will power gave way at the mention of the child she had borne and nurtured. The court hall was crowded with strong men, the eyes of many of them strangers to tears, but there was not one strong enough to choke back his emotions or keep tears from flowing; there was not a dry eye in the hall.

This lad, after the removal of his mother to the penitentiary, was adopted by the sheriff of the county, David H. Rallston, a man whose heart was as kind as ever beat in a human breast, and well indeed did he do his full part by the unfortunate lad. He sent him first to the common school and then to the graded school. The boy was a good student, progressed rapidly, stood high in his classes and carried off many honors. When he attained his majority he went to some Western State, and some years ago I heard he was succeeding well.

How true are the oft-quoted lines :

“Honor and shame from no condition rise;  
Act well your part, there all the honor lies.”

The Commonwealth's Attorney who prosecuted in these cases was John Paul, who afterwards served a term in Congress and was then appointed United States District Judge for the Western District of Virginia. He was one of the ablest prosecuting attorneys I have ever known; his congressional service was creditable, and his career as Judge from 1883 to 1902, when he died, was marked with ability and with an honesty and uprightness of purpose that drew plaudits from the bar of his district, and stamped him as a just, impartial, and incorruptible judge.

The leading attorney for the defense was John E. Roller, and well did he act his part and do his duty. Astute, cautious, and watchful, never tiring, never lacking in quickness to object to what he conceived to be an improper question

and then maintaining his position with great force; searching and severe in the cross-examination of opposing witnesses and drawing most skilfully from the witnesses for the defense every point favorable to his clients. Between the two—Paul and Roller—it was indeed a battle royal and a fight to the finish. They were both young men, neither forty—the latter, who was the junior, not more than thirty-five.

There were, as I have said, other interesting and important criminal trials during my judicial term, but space will not suffice to recount any of them, so I must leave the incidents connected with them where they are, stored away in my memory.

My six-years term as judge expired on the first day of January, 1880, and though I am proud to say no objections were raised by even political foes to the manner in which I had discharged my judicial duties, the edict went forth from a dominant faction of my own political party with which I was not aligned that my judicial head must be cut off, and when the legislature met, off it went, and in my stead a distinguished and highly-esteemed member of the county bar who belonged to the stronger faction, Colonel Robert Johnston, was elected as my successor.

## CHAPTER III

### STATE POLITICS FROM 1877 TO 1882.

A Memorable Political Convention—A Fight for the Gubernatorial Nomination—Mahoneites *versus* Danielites—Mahone's Political Ambition—Formation of the "Readjuster" Party—Mahone's Purpose—The State Convention of 1881—Daniel *versus* Cameron—I Make the Race for Congress—A Hot Campaign—Defeated at the Polls, but Win on a Contest—Anecdotes of the Campaign.

In 1877 a Democratic State Convention was convened in Richmond to nominate candidates for Governor and other State officers.

It was perhaps the most memorable political convention ever held in the State. The excitement was intense and feeling ran high. There were six candidates for the first place on the ticket, all distinguished Confederate veterans—General William Mahone, styled "the hero of the Crater," meaning the Petersburg Crater, that maelstrom of death; General Fitzhugh Lee, whose gleaming blade had made him famous; General William B. Taliaferro, a hero of the Mexican War as well as a Confederate veteran, whose record was as bright as the morning star; Colonel William Terry, among the bravest of the brave of the South's defenders; Colonel Frederick W. M. Holliday, whose empty sleeve told the story of his devotion to the cause all Virginians loved, and Major John W. Daniel, whose crutch and lame leg bore witness to his loyalty to his State and section in the mighty struggle that had bathed his Southland in the commingled blood of the gray and the blue.

The first ballot developed the strength of the various candidates in the following order; Mahone, Daniel, Holliday, Lee, Taliaferro and Terry. The balloting progressed until Terry, Taliaferro, and Lee had been dropped, leaving Mahone, Daniel, and Holliday holding the same relative positions as when the voting commenced. General John Echols had been selected as floor manager of Holliday's forces, and

I had been named as his assistant or lieutenant, and as soon as the result of the third ballot was announced the General asked permission for the followers of Holliday to retire for a conference. Permission was granted, and we retired to Sanger Hall. There Holliday's strength was largely augmented by many of the followers of Lee, Taliaferro, and Terry. Each had despaired of nominating his candidate, and they had come to join hands with us for Holliday.

It had been known from the time the delegates began to gather that there was a bitter feud between the Mahoneites and Danielites, and that they would never clasp hands across the wide abyss that separated them. The meeting of the Hollidayites was organized and General Echols addressed it. He said substantially that it was apparent to all that the battle-cry of Mahone was "slaughter Daniel," and the battle-cry of Daniel was "slaughter Mahone," and that as soon as either was convinced that he could not be nominated he would carry his strength to Holliday as far as possible as the next strongest candidate, which would of course insure Holliday's success. He then said: "Under the rules of the convention each of the dropped candidates can be put in nomination a second time. Will their friends do this, and give Mahone and Daniel time to convince themselves that they cannot win the prize?" Instantly the response came from the friends of all, "Yes, we will do it."

Our meeting adjourned and we returned to the convention hall. Lee, Taliaferro, and Terry were again put in nomination, and one after another dropped the second time, shutting them out of the contest, and leaving only Mahone, Daniel, and Holliday still in the field.

General Echols's words had been prophetic. While the clerks were getting ready to take the next ballot the word came to the General and myself from Mahone's headquarters that he would be withdrawn and his strength transferred to Holliday, but we were admonished to keep quiet, "say nothing." We heeded the admonition and remained as silent as dumb men, and waited with almost breathless anxiety the coming event.