

THE ASSASSINATION.

THE TRIAL ON WEDNESDAY.

Arguments in Defense of Payne and Atzerodt.

Statement by the Latter.

He Denies Being Implicated in the Murder.

FEEBLENESS OF MRS. SURRETT.

WASHINGTON, Wednesday, June 21, 1865.

The Court being called to order, Mr. Doster, counsel for Payne and Atzerodt, proceeded to read his argument in behalf of Payne.

THE ARGUMENT FOR PAYNE.

There are three things, he said, in the case of the prisoner Payne which are admitted beyond cavil or dispute. First, that he is the person who attempted to take the life of the Secretary of State; second, that he is not within the medical definition of insanity; third, that he believed what he was doing was right and justifiable. The questions as to his identity and sanity are therefore settled and among the things of the past, and the sole remaining question is, How far shall his convictions serve to mitigate his punishment? He used the word punishment deliberately, and with the consciousness that in so doing, he admitted that if the prisoner is a responsible being, he ought to be punished; and he said it, because he could not allow his duties as counsel to interfere with his convictions as a man so far as to make him blind as to the worth of the life of a distinguished citizen, and to the awful consequences of an attempt to take it away. It, indeed, such an attempt should be allowed to go without rebuke, then it seemed to him the office is but a perilous exposure to violence. The highest compensation for public service is the destruction which follows assassination, and then our public servants are but pitiable and defenceless offerings to sedition; and surely if any public servant deserved to be excepted from that fate, it was the illustrious and sagacious statesman, who, during a long life of arduous services, has steadfastly checked all manner of faction and public discontent; who in the darkest days of discord, has prophesied the triumph of concord, and who at all times, has been more ready to apply antidotes than the knife to the nation's wounds. That we may accurately, and as fully as the occasion demands, understand the convictions of the prisoner, the Counsel proceeded to give a sketch of his life, the customs under which he was reared and the education which he received. Lewis Payne Powell is the son of the Rev. George C. Powell, a Baptist minister, at present supposed to live at Live Oak Station, on the railroad between Jacksonville and Tallahassee, in the State of Florida, and was born in Alabama in the year 1845. Besides himself his father had six daughters and two sons. He lived for some time in Worth and Stuart Counties, Georgia, and in 1859 moved to Florida. At the breaking out of the war, but four years ago, the prisoner was a lad of sixteen, engaged in superintending his father's plantation and a number of slaves. We may safely presume that, occupied in the innocent pursuits of country life, he daily heard the precepts of the Gospel from his father, and that in the society of his sisters the hardy life of a planter was softened by the charms of a refined and religious circle, and that in the natural course of events he would be to-day, as he was then, a farmer and an honest man. But in 1861 war broke out. War! the scourge and pestilence of the race. The signal, which spread like a fire, was not long in reaching Live Oak Station. His two brothers enlisted, and Lewis, though but 16, enlisted in Capt. Stuart's company, in the 2d Florida Infantry, commanded by Col. Ward, and was ordered to Richmond. Mr. Doster proceeded to consider what, in the eyes of this Florida boy, was the meaning of the war, and what the thoughts

that drove him from a pleasant home to the field of arms. The counsel pictured in vivid language the auspices under which young Powell was trained in a slave community, where it was the custom to defend the institution of Slavery in meeting-houses, at political gatherings and in family places, where it was the practice to whip and burn men who preached against the institution, and to hunt fugitives with bloodhounds and also those who helped them to freedom. In the eyes of the lad the war meant to abolish this custom and upheave society from its foundations. His inheritance was to be dissipated, his vassalage, his laws invaded, his religion confounded, his politics a heresy. For this the lad was going to fight in the defense of a social system. He was going to fight in behalf of the traditional precept of the State—to defend State Rights. For a third reason he was going to fight—to show that he was a better man than the Northerners, under the deep conviction prevailing in his section that their blood and breeding was better than that of the Northerners. The fourth reason was to repel invasion. These were his incentives, but he had been schooled and trained to war by the bowie-knife and pistol code of honor prevalent there.

The counsel asks whether in the wide world there is another school in which the prisoner could so well have been trained for assassination as in this slaveocracy. Mr. D. proceeded to argue that in this prisoner is to be found the legitimate moral offspring of Slavery, State rights, chivalry and delusion, and then goes on to inquire if we, as the American people, are not responsible for the wicked school in which he was educated, and if we will determine to destroy him because he learned but as we instructed; but there is another school before him, the school of war. At Richmond his regiment joined the army of Gen. Lee, and was joined to A. P. Hill's Corps. With it he passed through the Peninsula campaign, and the battles of Chancellorsville and Antietam. Here he heard that his two brothers had been killed at the battle of Murfreesboro. Finally, on the 3d of July, 1863, in the charge upon the Union center, at Gettysburg, he was wounded and taken prisoner and detailed as a nurse in a Pennsylvania hospital. The demoralizing effect of his two years campaigning as a private in the army, which he entered as a boy of 16, is shown. He is one of that army who made baskets and cups out of the bones of Union soldiers; who starved their prisoners; who plundered the dead; who slew men after surrender, and were commanded by officers who had violated their oaths to the United States—an army that beheld any means justifiable that helped the cause of Southern independence, and finally an army that held the person and Cabinet of the President of the United States in holy execration. This is the horrible demoralization of civil war; and on those responsible for this war should rest the responsibility of the acts of this plastic boy,—who came into the world in the year of the annexation of Texas,—has lived but four Administrations—is younger than the last compromise with Slavery. He is the moral product of the war, and belongs to those who first began it. How does he differ from the other Rebel soldiers? The best Rebel soldiers have fired at Mr. Lincoln and Mr. Seward, and aimed to destroy the Government by a sudden blow. So did he. What then has he done that every Rebel soldier has not tried to do? Only this—he has ventured more; he has shown a higher courage, a better hate, a more ready sacrifice. He has aimed at the head of a Department instead of the head of a corps. To us the President appeared as the Savior of the Nation from civil war, and Mr. Seward as the great pacificator, the savior from foreign war. But to this boy and to 5,000,000 of his fellow-countrymen the one appeared as the usurper, invader and violator of laws and the destroyer of life, liberty and property, and the other as his adviser in oppression and the slippery advocate of an irrepressible conflict. He differed from the Southern army simply because he surpassed it in courage, and he differed from a patriot and a martyr simply because he differed from a patriot and a martyr simply because he was mistaken in his duty. But there is a third school before him. From Gettysburg he was sent to West Buildings Hospital, Pratt-st., Baltimore, and remained till October, 1863, when seeing no hope of exchange, he deserted for his regiment of cavalry at Fauquier. He remained in that service till Jan. 1, 1865. On that day, as we see by the narrative of Mrs. Grant, he saved the life of two Union soldiers. About the same time he, like many other Southern soldiers, began to despair of the Confederacy, came to Alexandria, sold his horse, gave his name as Payne, took the oath of allegiance as a refugee from Fauquier, and went to Baltimore and took a room at the house of Mrs. Bronson, the lady he had met at Gettysburg, and resolve to wait for the return of peace. In this school—the Rebel Cavalry service—he received further damaging training, and among the people of London and Fauquier, who had suffered most from the war, gained an added acrimony and hate for those deemed their oppressors. But there is a fourth school before him—the school of necessity. He was in Baltimore without trade or profession; he was unused to manual labor; in perplexity he whiled away his time reading medical works and brooding in his chamber. While in this condition the fracas occurred at his boarding-house by which he was arrested, brought before the Provost-

Marshal and ordered north of Philadelphia. Everywhere the sky is dark to him. He is proscribed among Northern men as a Rebel; despised among Southern men in Baltimore as a recreant Southerner and a by-word among Southern men at home—a deserter. Peniless and friendless the earth seems to reject him, and God and man to be against him. This is the work of civil war. His education is now completed. Slavery has taught him to wink at murder—the Southern Army has taught him to practice and justify murder—guerrilla warfare has taught him to love murder—necessity has taught him resolution to commit murder. He needs no further education. His four terms are complete. He graduates an assassin, and of this college the people of the United States have been the stern tutors, guides and professors. It needs now only that some one should employ him. At the beginning of the war, Powell one night went to the theater at Richmond. It was the first play that Powell ever saw and he was spell-bound with the magical influence of the stage. He was attracted by the voice and manner of one of the actors, J. Wilkes Booth. Although a private soldier, Powell considered himself the equal of any man, and after the play was over sought and gained an introduction to the actor. Never were two natures thrown together so different, yet one so well calculated to rule the other. The soldier was tall, rough, frank, generous, illiterate—the actor was of a delicate mould, polished, graceful, subtle, with brilliant powers, and abundant stock of reading. They saw enough of each other to form a close intimacy, sufficient to complete the control of Booth over the prisoner, and parted not to meet again for nearly four years. In the twilight of that memorable day in March, Powell was dragging himself along the street past Barnum's hotel, a poor creature overcome by destiny. Suddenly a familiar voice hailed him. Looking up the steps, he saw the face of the Richmond actor. The actor, on his side, expressed astonishment to find Powell in such a plight, and Powell answered him in a few words, "Booth, I want food—I am starving." Under other circumstances, Booth might have given him bread, but he was filled with a mighty scheme, for he had just come from Canada, and was lying in wait for agents. He seized with eagerness the poor man's hunger to wind about him his coils, saying: "I will give you as much money as you want but you must swear to stick by me, it is in the oil business." A hungry stomach is not cautious of oaths, and Powell then swore that fatal oath binding his soul as firmly to Booth as Faust to Mephistopheles, and went in and feasted. Next morning Booth gave him money enough to buy a change of clothing. Powell now began to be anxious to know what plan it was to make him rich, but Booth answered him evasively it was the oil business. He knew well enough that he had to do with a desperate man, but he knew also that a proposition of a guilty character might be rejected. Mr. Doster proceeded to describe and narrate in animated language the manner in which Booth, step by step, worked on the mind of his victim, depicting to the prisoner the wrongs of the South and the guilt of her oppressors, and wrought him up to a pitch of frenzied passion to avenge the wrongs of his country, and set himself right with his countrymen, who despised him as a recreant. Booth saw his victim was ready, and hastened to impart his mysterious plans. The plan was to go to Washington, take a ride with confederates to the Soldiers' Home, capture the President and deliver him to the Rebel authorities. On the evening of the 14th of April, at 8 o'clock, Booth told him the hour had struck, placed in his hands the knife, the revolver and the bogus package of medicine, and told him to do his duty, and gave him a horse, with directions to meet him at Anacostia bridge, and he went and did the deed. "I," said Mr. Doster, "have asked him why he did it." His only answer is: "Because I believed it my duty." Mr. Doster argued that Payne, at the time he committed this deed, had no will of his own; but had surrendered his will completely to Booth, under that influence—that complete supremacy of one mind over another—that has gone by various names among various nations, and which we call mesmerism. Booth was a person peculiarly gifted with this unaccountable influence, and the prisoner was further held to Booth by the ties of gratitude, by his oath, by the ties of interest, and the ties of sympathy in a common cause. Hence the explanation why, when informed of Booth's plans, he did not inform the authorities and break away from Booth. Mr. Doster drew a distinction between the hired assassin who kills for gold, and the fanatical assassin who deems it his duty to offer up his own life in exchange for the life he believed to be a public enemy, and contends that Payne was of the latter class. The erect bearing, the patience, the smiling self-possession of the prisoner, were referred to as indicating the political fanatic—a monomaniac on the subject of his duty. He urged that this man wishes to die, in order to gain the full crown of martyrdom, and therefore if we gratify him he will triumph over us; but if we spare him, we will triumph over him. If suffered to live he will receive the worst punishment—obscurity; and the public will have nothing to admire. He has killed no man, and if he be put to death, we shall have the anomaly of the victim surviving the murderer, and under the laws he can be punished only for assault and battery with intent to kill, and therefore

imprisoned. Mr. Doster proceeded with other considerations why the prisoner's life should be saved, and before concluding spoke of the many good qualities he had found in the prisoner by his intercourse with him; his frank manly bearing; his disinclination for notoriety, and his disposition to screen himself from punishment. His only prominent anxiety was lest the people should think him a hired assassin or a brute; an aversion to be made a public spectacle of, and a desire to be tried at the hands of his fellow-citizens.

A RECESS.

After an hour's recess taken by the Court, Mr. Doster entered upon the argument in behalf of Atzerodt, commencing by offering a statement by his client as follows:

STATEMENT OF ATZERODT.

"I am one of the party who agreed to the capture of the President of the United States, or any member of the Cabinet, or Gen. Grant, or Vice-President Johnson. The first plot to capture failed, the second, to kill, I broke away from the moment I heard of it. This is the way it came about. On the evening of the 14th of April I met Booth and Payne at the Herndon House in this city at 8 o'clock. He (Booth) said he himself would take charge of Mr. Lincoln and Gen. Grant, Payne should take Mr. Seward, and I should take Mr. Johnson; I told him I would not do it; that I had gone into the thing to capture, but I was not going to kill; he told me that I was a fool; that I would be hung anyhow; that it was death to every man who backed out, and so we talked; I wandered about the streets till 2 o'clock in the morning, and then went to the Kimmell House, and from there pawned my pistol at Georgetown, and went to my cousin's house in Montgomery County, where I was arrested; the 19th following after I was arrested, I told Provost-Marshal Wells and Provost-Marshal McPhail, the whole story; also told it to Capt. Monroe, and Col. Wells told me if I pointed out the way Booth had gone I should be reprieved; and so I told him I thought he had gone to Charles County in order to cross the Potomac; the arms which were found in my room at the Kirkwood House, and a black coat, do not belong to me; on the afternoon of the 14th of April Harrold called to see me and left the coat there; it is his coat, and all in it belongs to him, as you can see by the handkerchiefs marked with his initials and with the name of his sister, Mrs. Naylor; now I will state how I passed the whole of the evening of the 14th of April; in the afternoon, about 2 o'clock, I went to Keltner's stable on Eighth-st., near D, and hired a dark bay mare and rode into the cemetery for pleasure, and on my return put her up at Naylor's stable; the dark bay horse which I had kept at Naylor's before, on, or about the 3d of April belonged to Booth and also the saddle and bridle; I had charge of him to sell him, and I do not know what became of him; at about six in the evening I went to Naylor's again, and took out the mare; I rode out for an hour, and returned her to Naylor's; it was then nearly eight, and I told him to keep the mare ready at 10 o'clock, in order to return her to the man I hired her from; from there I went to the Herndon House; Booth sent a message to "Oyster Bay," where I was saying he wanted to see me, and I went; Booth wanted me to murder Mr. Johnson; I then went to the "Oyster Bay" on the avenue above Twelfth-st., and whited away the time till about 10; I got the mare, and having taken a drink with the hostler, galloped about town, and went to the Kimmell House; from there I rode down to the depot, and returned my horse, riding up Pennsylvania-ave. to Keltner's; from Keltner's I went to the Navy-Yard to get a room with Wash. Briscoe; he had none, and by the time I got back to the Kimmell House it was near two; the man Thomas was a stranger I met on the street; next morning, as stated, I went to my cousin Richters in Montgomery County.

THE ARGUMENT FOR ATZERODT.

Mr. Doster, proceeding with his argument, quoted the specification under which the prisoner Atzerodt is charged, as follows: "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, 1865, and about the same hour of the night aforesaid, within the military department and 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 the said Andrew Johnson." In support of this specification the Government has submitted the testimony of Weichman and Miss Surratt that he was frequently at Mrs. Surratt's in company with Booth; of Greenwalt, that he had interviews with Booth at the Kimmell House, and that he said on the 1st of April: "Greenwalt, I am pretty near broke, though I have friends enough to give me as much money as will keep me all my life; I am going away one of these days, but will return with as much money as will keep me all my life-time;" of Marcus P. Norton, that he overheard him in conversation with Booth, in which it was said about the evening of the 3d of March that if the matter succeeded as well with Johnson as it did with old Buchanan, the party would be sold, and also that the character of the witnesses would be such that nothing could be proved by them; of Col. Nevins, that he was asked by the prisoner, between 4 and 5 o'clock of the after-

noon of the 12th of April, at the Kirkwood House, to point out Mr. Johnson while at dinner; of John Fletcher, that on or about April 3 the prisoner owned a horse and saddle which he afterward said was sold in Montgomery County, and which was afterward found near Camp Barry Hospital, on the night of the 14th of April, and also that he got a dark bay mare at Naylor's on the evening of the 14th which he had brought there in the morning, and rode her away at half-past six, brought her back at eight; returned again at ten, ordered his mare, took a drink, said if this thing happens to-night you will hear of a present, and said of the mare, "She is good on a retreat;" that then he rode to the Kirkwood House, came out again, went along D st., and turned up Tenth-st.; of Thomas L. Gardner, that the same dark bay one-eyed horse found near Camp Barry was sold by his uncle to George Gardner; of John Toffey, that the same horse was found at 12:30 a. m., Saturday, April 15, near Camp Barry; of Wash. Briscoe, that on the night of the 14th of April between 12 and 12:30 o'clock, the prisoner got out of the cars near the Navy-Yard and asked him three times to let him sleep in the store, that he was refused, and said he would return to the Kimmell House; of Greenwalt, that he came to the Kimmell House at 2 a. m., with a man named Thomas, and hesitated to register his name and went away in the morning without paying his bill; of Lieut. Keim, that he slept in the same room with the prisoner at the Kimmell House, and when he (witness) spoke of the assassination, Atzerodt said it was an awful affair, and that on the Sunday before he saw a knife in his possession—a large bowie knife in a sheath, and that he (Atzerodt) remarked, "If one fails, I want the other; of Mr. Clendenin, that he found a knife, similar to the one seen by Keim in E, between Eighth and Ninth-sts., on the morning after the assassination; of Robert Jones and John Lee, that Atzerodt took a room at the Kirkwood House, No. 126, and that in it on the morning of the 15th, was found a coat containing a pistol loaded, a bowie-knife and handkerchief, marked with the name of J. Wilkes Booth; of Provost-Marshal McPhail, that Atzerodt confessed to him that he threw his knife away near the Hudson House; that he pawned the pistol at Caldwell's store, in Georgetown, and borrowed \$10, and that the coat and arms at the Kirkwood belonged to Harrold; of Sergeant Gammill, that he denied having left Washington recently, or having anything to do with the assassination; of Hezekiah Metts, that on the Sunday following the assassination, Atzerodt said at his house; if the man had followed Gen. Grant, who was to have followed him, he would have been killed. To negative this specification the defense has submitted the testimony of Somerset Leaman, that the prisoner said at Mett's house, when asked if Gen. Grant was killed—"No; I don't suppose he was; if he was killed, he would have been killed, probably, by a man that got on the same train of cars that he did, and that he never used the language imputed to him by Metts; that he was confused, by the daughter of Metts, to whom he was paying his address, was showing him the cold shoulder that day; of James Laman to the same effect; of James Kellaker, that Atzerodt hired a dark bay mare at his stable on the afternoon of the 14th, wrote his name in a large hand, and willingly gave references, and said he lived in Port Tobacco, and was a coachmaker by trade; of Samuel Smith, that the mare was returned about 11 o'clock on the evening of the 14th; of Samuel McAllister, that Atzerodt rode up to the Kimmell House about 10 and called the black boy to hold his mare; that the knife found near the Herndon and the revolver procured at Caldwell's had been in Atzerodt's possession, but he could not identify the coat or contents found at the Kirkwood; of Provost-Marshal McPhail, going to show that the coat belonged to Harrold; of Mrs. Naylor, that the handkerchief found in Atzerodt's room was marked with the name of Harrold's sister; of Hartman Rechter, that the prisoner came to his house in Montgomery County and made no effort to escape; of Samuel McAllister that he was generally considered a coward; of Washington Briscoe, Lewis C. Hawkins and Henry Brawner that he is a noted coward; of Gov. Farwell that he saw no one lying in wait at Vice-President Johnson's rooms at the Kirkwood immediately after the assassination, nor did he see any one attempt to enter for half an hour; of W. C. Browning, Private Secretary, that the Vice-President was in his room from 5 o'clock the balance of the evening; of M. J. Pope that on the 12th the prisoner was at his stable endeavoring to sell a horse and that he went off with John Barry, of the latter that the prisoner was at Pope's; of Henry Brawner and Lewis C. Hawkins that on the 3d of March he was in Port Tobacco; of Judge Olin and Henry Burden that they would not believe Marcus P. Norton on oath. The prisoner submits that the testimony adduced by the prosecution fails utterly to support the specification, but corroborates the prisoner's own statement in every particular. The specification charges him with "lying in wait for Andrew Johnson" etc., and on this point the evidence is circumstantial. Col. Nevins says Atzerodt inquired for the President on the afternoon of April 12, between four and five o'clock, and acknowledges that he saw him only for a moment at the time. Pope says that the prisoner came to his

stable some day in April to sell a horse. And this day is fixed by John Barry as the 12th of April, because he made an entry in his book at the time. Col. Nevins's testimony must, therefore, fall to the ground. And while it is concluded that some one at the Kirkwood had asked Col. Nevins this common question, it is certain that Atzerodt is not the man. The second point brought in support of the specification is by Marcus P. Morton, whose declaration is to the effect that he saw Atzerodt in company with Booth on the evening of March 3, he thinks, and heard it said, "If the matter succeeds as well with Johnson as it did with old Buchanan, the party would be sold;" also the words, "The character of the witnesses would be such that nothing would be proved by them." The prisoner says this is a deliberate falsehood, as he proved that he was not in Washington on the 2d and 3d of March by Henry Brawner of Port Tobacco and Lewis P. Hawkins, who testify that about that time he was at home. This would be sufficient to disprove Norton's statement; but there is other evidence that he was deliberately making testimony; for he says in the same day he saw Dr. Mudd, who was asking for Booth. Dr. Mudd has shown that he was not at the Kirkwood, or in Washington City on that day. This ingenious fabricator of testimony chose the 3d of March to give his story probability; and he appears, before he wove this fine perjury, to have omitted reading the testimony of Conover, who says the name of Andrew Johnson was not joined in the plot until after the inauguration; and at that time the name of Mr. Hamlin was in the list, and so perpetrated an egregious blunder. How singular that he should remember exact words for three months, and facts when he is so short-sighted. As might be inferred he is a notable false witness. He takes patent cases, and if he cannot win by argument, he takes the witness box and swears them through. Mr. Henry Burden, a wealthy citizen of Troy, and Judge Olin testify that they would not believe him on oath. From the internal evidence of his testimony, its falsity in the matter of Dr. Mudd; its proven falsity in the time of Atzerodt's visit to the Kirkwood House, and his known reputation as a false witness leaves no shadow of doubt that his testimony is the offspring of a desire to distinguish himself on the witness stand, and that Atzerodt never met Booth at the National on the 3d of March, or had the alleged conversation with him; the third strong point of the prosecution is that Atzerodt left room 126 at the Kirkwood House, taking the key with him; and in his room was found a coat containing a bowie-knife, pistol, handkerchief, marked J. Wilkes Booth, together with notes on the Ontario Bank in the name of Booth, and memoranda showing they once belonged to Booth; the coat and contents were disposed of by the prosecution. McPhail swears Atzerodt told him that the coat and arms belonged to Harrold. The clerk said that some one called to see Atzerodt in the afternoon. It was Harrold, and he left his coat in the room. The handkerchief is marked with the name of Mary E. Naylor, sister of Harrold; another is marked "H." for Harrold. But why did Atzerodt suffer his coat and arms to be in his room? Because he was in a plot to capture the President. In so far he was the colleague of Harrold and Booth; no further, because for this purpose to capture the President, to be used in defense he carried the knife and pistol which McAllister used to keep for him. The same knife he threw away, and the same pistol he pawned, and therefore he suffered Harrold to leave his armor for the same reason he carried his own. But why did Atzerodt go away with the key and never come back? Because he did not want to be arrested. Because he was not guilty of aiding in the assassination of Mr. Lincoln. Because he was in the plot so far as to capture the President, and when he was ordered to kill the Vice-President and refused, he was unable to resolve either to tell the authorities for fear of Booth, or to do the deed for fear of being hanged, and so he just abandoned the room, as he abandoned everything else connected with the conspiracy. Had he been able to resolve to do his ill-learned duty, he would naturally have taken the coat of Harrold and put it on, and used the arms. Had he been able to resolve to fly at once, he would have removed traces of his participation. One reason for leaving without paying, was because he had no money, and the reason for leaving the coat was because it did not belong to him; but the main reason was that he was between two fires that brought out his native irresolution, and so he cut the Gordian knot by running away. We shall see that he left the Kimmell House the next morning without paying his bill. It was for the same reason. He had no money until he pawned his pistol in Georgetown. The fourth point of the prosecution is that Atzerodt lodged in the same house with the Vice-President. The relative situation of the rooms was favorable to assassination. The room of the Vice-President was one which no one could help passing in going down or up, and room No. 126 was as remote from it as possible and in a different wing. It is evident that any one desirous of lying in wait for the Vice-President would have taken a room on the same floor, but the actual fact is better than suppositions. Mr. Browning says the Vice-President was in his room from 5 to 10, during which time the deed could have been done. There is no evidence that Atzerodt was at the house during that time, except that of Fletcher, who says that Atzerodt went there

and stayed five minutes. What was he doing there? He was taking a drink at the bar; if he tried to kill Mr. Johnson why was it not shown? No one was seen lying in wait; the lock had not been tampered with; the Vice-President was undisturbed even by a knock on the door and why? because Atzerodt refused to do it; because he kept up appearances but backed out; because the instrument which was to have assassinated the Vice-President was too conscientious or was afraid to do it. The fifth point is that on his arrest he gave a false name, denied having left Washington recently, and said he had nothing to do with the assassinations. For the last statement he told the truth. Assassinations and murders were things for which he was not by nature intended, and he had nothing to do with them. As for the false name, it appeared that Sergt. Grinnell understood his name to be Atwood; knowing that he had been in league with others to capture the President he was afraid to confess his part then and denied having secretly left Washington. The sixth point is that he said to Fletcher after ten o'clock on the 14th of April, "If this thing happens to-night you will hear of a present," and also in reference to the mare, "She is good on a retreat;" and to Lieut. Keim on the Saturday before, "If one fails, I shall want the other." On the first occasion Atzerodt was about half drunk; while the other remarks were made after the parties had taken their cocktails. So that, even if we credit the drunken memories of the witnesses, we cannot do more than credit it to pot-valor pointing to the possible desperate melee of an attempt to capture. There is only one assumption that will make everything clear. Atzerodt backed out. He arrived here. He liked the money, but did not like to be hung. He never heard of murder before that evening at 8 o'clock, or he would long before have hidden himself. When he did hear it, he had firmness enough to object. Coward conscience came to his rescue. But Booth threatened to kill; and he knew well enough that he was the man to close the mouth of any one who troubled him. So he went off, driven like a poor, frail being between irresolution and fear; took drinks, feigned to be doing his part, talked valiantly, promised gloriously, galloped around fiercely, looked daggers, and when the hour struck did nothing and ran away. The specification charges that about 10:15 he was lying in wait to murder, &c., and the counsel contended that all the circumstances can be accounted for. The prisoner had an opportunity to lie in wait, and as there was no proof that he did, he should be considered guiltless of the attempt to murder. If the theory of his attempting to murder be adopted, it is met with denial at every point. He tried to become a hero, but was only a coachmaker, absolutely without courage. The plain, unvarnished statement is that during the latter part of February, John Surratt and Booth wanted a man who understood boating, and could both get a boat and ferry a party over the Potomac. Surratt knew Atzerodt, and under the influence of great promises of a fortune, consented to furnish the boat and do the ferrying over. This plot was attempted on the 15th of March, and failed. Booth, however, kept his subordinates uninformed of his plans, except that it was understood the President was to be captured. Meanwhile everybody was waiting for Booth. On the 13th or 14th of March Atzerodt went to the Kimball House. On the 1st of April he talked of future wealth; on the 6th he spoke to Lieut. Keim over their liquor, of using one, if the other failed; on the 12th he stopped at the Kirkwood and tried to sell the bay horse to Pope; on the 14th Booth unfolded his plans at the Herndon House, and Atzerodt refused; from the Herndon House he went to the Oyster Bay till 10, and took drinks; at 10 he took a drink with Fletcher; at 10:10 he took a drink at the Kirkwood House; at 10:20 ditto at Kimmell, and rode about the city; at 11 returned his horse; at 12 he was at the Navy Yard; at 2 he went to bed; next morning at 5 he got up and went to Georgetown, pawned his pistol, and went to Mr. Mett's; on the 16th he took dinner at Mr. Mett's; on Sunday evening he went to Hartman Richter's; on the 19th he was arrested. This ends this history which might have become a tragedy, but which the prisoner has turned to a farce. He was riding around from bar-room to bar-room while Payne was at Seward's, and it is plain he was drunk after his peregrinations. To charge him with lying in wait, &c., is paying him an undeserved compliment. There is not a particle of the specification proved, but the immediate contrary. During the whole of the evening, so far as the evidence throws any light on his conduct, instead of lying in wait near to the Vice-President, he was standing at the different bars from the Union House to the Kimmell House, with the intent then and there unlawfully and maliciously to make Atzerodt drunk. Booth employed him for an emergency. He was perfectly competent to perform in the plan to capture, to furnish the boat, to carry the party across the Potomac. For participating in the President's assassination he could never have been intended. Booth was, as his conduct shows, anxious to carry off the glory of the thing. He remarked that he wanted no botching with Gen. Grant. He must have known when he told Atzerodt to take charge of the Vice-President that he had not

the courage and did not care particularly whether he accomplished it or not. The charge is divisible into two separate and distinct parts: With combining, confederating, &c., on or before the 6th of March, &c., and even suppose he was proved guilty of the charge and specification he has already turned State's evidence to the Provost-Marshal, and therefore his punishment would fall under the practice usual in all courts of justice, that one confessing has an equitable claim on the leniency of the court. His case, however, rests on no such slender ground. Instead of conspiring to kill, he refused to kill; and instead of lying in wait, he intoxicated himself at the appointed hour, and next morning ran away. He is guilty solely of what he confesses, of conspiring to abduct the President. Of that he can be found guilty under a new indictment.

Mr. Aiken read the argument in behalf of Mrs. Surratt. It commenced as follows: For the lawyer as well as for the soldier there is an equally pleasant duty; an equally imperative command, that duty to shelter from injustice and wrong the innocent, to protect the weak from oppression, and to rally at all times and on all occasions, when necessity demands it to the special defense of those whom nature, custom or circumstance may have placed in dependence upon our strength, honor and cherishing regard that command emanates and reaches each class from the same authoritative and omnipotent source. It comes from a superior whose right to command none dare question, and none dare disobey. In this command there is nothing of that *lex talionis* which nearly two thousand years ago nailed to the Cross its Divine Author. Therefore, all things whatsoever ye would that men should do unto you, do you even so unto them, for this is the law and the prophets. God has not only given us life, but he has filled the earth with everything life-desirable; and when we sit down to determine the taking away of that which we did not give, and which, when once taken, we cannot restore, we consider a subject the most solemn and momentous within the range of human thought and human action. Profoundly impressed with the innocence of our client, we enter upon this last duty in her case with the heartfelt prayer that her honorable judges may grant her acquittal. After alluding to the argument of Reverend Johnson, Mr. Aiken discussed the plea of reasonable doubt, and in applying the rules which obtain in civil Courts to Courts-martial, and that they must be governed by precisely those reasonable rules of evidence that time and experience have unalterably fixed as guides in the administration of the criminal law. Mr. Aiken here quoted many authorities sustaining his positions. He claimed, if Mrs. Surratt could be found guilty in a civil court she might be convicted here. He then stated that it was highly desirable that the findings of this court should be sustained by sufficient evidence. If they were, the public would overlook any irregularity that might be supposed to exist. He stated that the case was wonderfully barren of even circumstantial evidence against Mrs. Surratt; but all that was circumstantial by no means connected her with guilty knowledge or guilty intent. He then inquired what these facts were; the character of this evidence in support of them, and of the witnesses, and whether they are consistent with a reasonable theory by which guilt is excluded. The character, tone and scope of the argument from the remarks near its close, namely: A mother and a son associated in crime, and such a crime as this half of the civilized world never saw matched in all its dreadful bearings. Our judgments can have hardly recovered their unprejudiced poise, since the shock of the late horrors. If we can contemplate with credulity such a picture conjured by the unjust spirits of indiscriminate accusation and revenge, a crime in which private misery would have driven even the haunted heart of a Medici, a Borgia or a Madame Boearine to wild confusion before its accomplishment, and daunted even that soul of all the recorded world the most eager for novelty and most unshrinking in sin, the indurated soul of Christians of Sweden—such a crime as the profoundest plotters within padded walls would scarcely whisper, the words forming the upper air would convert aspens and all glad walls, and this made as mater familia

home where her children had gathered all the influences of purity and the reminiscences of innocence, where religion watched and the church was minister and watcher—who, were circumstantial evidence strong and conclusive, such as time and the slow wearing fates could elucidate and deny—who will believe, when the mists of uncertainty which crowd the present shall have dissolved, that a woman born and bred in respectability and competence—a Christian mother who never offended laws of civil propriety, whose unflinching attention to the most sacred duties of life has won for her the name of a proper Christian matron, whose health was ever warmed by charity, whose door was unbarred to the poor and whose penates had never cause to veil their faces; who could believe that she had so suddenly and fully learned the intricate arts of sin and shame.

Mr. Aiken closed with the following remarks: Let not this first State tribunal in our country's history, which involves a woman's name, be blazoned before the world with the harsh hints of intolerance which permits injustice; but as the benignant heart and kindly judging mind of the world's lamented victim of a crime which would, in its ramifications of woe, arouse so many fates, would have counseled you. Let the heralds of peace and charity with their wool-bound staves, follow the fasces and axes of judgment and law, and without the sacrifice of any innocent Iphigeneia, let the Ship of State launch with the dignity of unstained sails into the unruffled sea of Union and prosperity.

The Court then adjourned.

Resume of Wednesday's Proceedings.
WASHINGTON, Wednesday, June 21, 1865.

Mr. Doster read a paper in the case of Payne. He considered that there was but one question, namely: How far the conviction of the prisoner in doing what he thought was right in attempting the assassination of Secretary Seward should mitigate his punishment. The counsel gave a history of the prisoner, and excused the crime as the result of his Southern education. Slavery having trained the assassin. The accused was a fanatic, an enthusiast, a hero, not a hired tool. Mr. Doster said that apart from the crime Payne had committed, he had formed an estimate of his character little short of admiration.

Mr. Doster then read a statement from Atzerodt, saying that he was one of the party who agreed to capture President Lincoln, but that when Booth broached assassination, he (the prisoner) positively refused to have anything to do with the affair. Booth wanted him to murder Vice-President Johnson, but this he peremptorily declined to do.

Mr. Aiken read an argument in favor of Mrs. Surratt. The Court then adjourned until Friday.

Mr. Ewing will on Friday afternoon present his argument in behalf of Dr. Mudd, and this will conclude all that is to be said in defense of the prisoners. The arguments of counsel for each of the accused are generally conceded to possess much legal and literary ability. That of Mr. Aiken to-day was listened to by a dense auditory and the appeal in behalf of his client, Mrs. Surratt, was more than ordinarily eloquent and touching. The Court have given every facility to counsel for the defense in the procurement of witnesses, and have shown them marked personal attentions. As a general thing the Court have granted all that the counsel have asked for, and throughout the trial good feeling and courtesy have prevailed. The Court will examine one or two witnesses on Friday, and after the argument of Mr. Ewing shall have been read will probably adjourn till early next week, when associate Judge-Advocate Bingham will, it is expected, sum up the facts for the Government. By permission of the Secretary of War, Miss Annie E. Surratt has been permitted constantly to keep her mother company. Mrs. Surratt, owing to her feeble physical condition, has been removed from her cell to a comfortable room in the Penitentiary.