

# THE ASSASSINATION.

## THE TRIAL ON THURSDAY

### The Testimony for the Defense to Close To-Day.

## JEFF. DAVIS'S INDICTMENT.

### Steamboat Burning on the Mississippi.

## ATZERODT NOT COURAGEOUS.

### Dr. Mudd Regretting the Assassination.

Special Dispatch to The N. Y. Tribune.

WASHINGTON, Thursday, June 8, 1865.

Considerable ground was got over to-day in the Conspiracy Court. Gen. Ewing assures us that the testimony for the accused will be all in to-morrow.

The indictment against Jeff. Davis was drawn up here by District-Attorney Carrington on his own motion and without the advice or knowledge of the President, Attorney-General or any member of the Cabinet, so it is entirely uncertain whether the prisoner will be tried under this particular indictment or not. Maryland, Pennsylvania and the District of Columbia are all jealous of each other, and each is desirous of performing the last rites for the distinguished Rebel. Some apprehensions are felt here. Also, that under the present government of the District, a jury would be likely to be chosen, which would fail to agree even as to Davis's treason. This, however, is not probable.

To the Associated Press.

WASHINGTON, Thursday, June 8, 1865.

The record of the previous day was read.

PLACED ON RECORD.

Mr. Ewing, with the consent of the Judge-Advocate, filed in evidence Order No. 26, dated Feb. 22, 1863, defining the boundaries of the Military Department of Washington; together with a map, identified by a witness, Dr. Beauford, as correct, showing the roads and localities in the neighborhood of the house of the prisoner, Dr. Mudd.

Judge-Advocate Holt filed in evidence, without objection, Order No. 141, promulgating the Proclamation of the President of the United States, dated Sept. 24, 1862, suspending the writ of habeas corpus and providing for the trial by military authority of all disloyal persons and aiders and abettors of the Rebellion, etc.

The Secretary of War certifies that the order is a true copy, and that the same is in full force and not revoked.

EVIDENCE FOR MRS. SURRATT.

Mr. Aiken asked permission to offer in evidence, on the part of Mrs. Surratt, the following paper:

St. LAWRENCE HALL, Montreal, June 3, 1865.

I am an actor by profession, at present fulfilling an engagement at Mr. Bucklands Theater in this city; I arrived here on the 12th of May; I performed two engagements at Ford's Theater in Washington during the past Winter, the last one closing on Saturday evening, March 25; I left Washington Sunday evening, the 26th of March, and have not been there since; I have no recollection of meeting any person by the name of Welchman.

JOHN McCULLOUGH.

Sworn to and subscribed before me at the United States Consulate-General in Montreal, this 3d day of June, A. D. 1865.

C. H. POWERS, Vice-Consul-General.

Judge Bingham objected to the reception of the paper, on the ground that it was wholly immaterial

whether Mr. McCullough ever met the witness, Welchman, or not. Welchman, when on the stand, had been asked by the other side whether he saw McCullough, and it was not competent now to attempt to impeach him on that issue, as it was not material whether he ever did or did not see McCullough.

Mr. Aiken said the paper furnished a complete refutation of a statement made by Welchman so far as concerned the fact of his having seen McCullough, and this was material so far as it contradicted one item of the statements of that witness.

Judge-Advocate Holt read from several authorities in support of the position assumed by the prosecution. The objection of the Judge-Advocate was sustained and the paper ruled out.

EXAMINATION OF COL. J. C. HOLLAND.

By Mr. Ewing—I am Provost-Marshal for the Fifth Congressional District of Maryland; I am acquainted with Daniel J. Thomas; did not, at any time during last Spring or Winter, receive a letter from him to the effect that Dr. Samuel A. Mudd had said to him that President Lincoln, his whole Cabinet, and every Union man in Maryland, would be killed within six or seven weeks; I never received a letter from Thomas in which the name of Dr. Samuel Mudd was mentioned; did receive a letter from him dated Feb. 9, 1865; Mr. Thomas was what was called an independent detective—that is, he was not commissioned under the Government, but by me specially, to arrest deserters and drafted men who failed to report, for which his compensation was the rewards allowed by law for such arrests. Such commissions were issued to all who applied for them.

By Assistant-Judge-Advocate Burnett—The letter which I received from Thomas has some reference to Dr. George Mudd with whom I am acquainted.

RECESS.

The hour of 1 o'clock having arrived the Commission took a recess until 2 when the body reassembled.

EXAMINATION OF ALEXANDER BROWNER.

By Mr. Doster—I live in Port Tobacco; have known the prisoner Atzerodt for the last six or eight years; Atzerodt was at Port Tobacco several times in the Spring; at one time about the latter part of February he went with me to the country; I think on that occasion he had come from Bryantown, and was riding a sorrel horse; never considered the prisoner a courageous man; he is generally known as being a coward, and there are several instances of his want of courage; I have seen him make pretty good time in getting out of the way when a pistol was fired in a melee or anything of that kind.

EXAMINATION OF JOHN H. BODEN.

By Mr. Ewing—Live in Prince George County, Md.; am acquainted with Daniel J. Thomas; he is generally known as a very untruthful man; from my knowledge of his character I do not think I could believe him under oath.

Cross-examined by Judge-Advocate Holt—Never knew Thomas to swear falsely; I do not hold that because a man speaks an untruth he will necessarily swear falsely.

Mr. Ewing stated there remained to be called eight witnesses in the case of Mudd, whom he desired to question with a view to an impeachment of the witness (Thomas), but they were not present; one of the witnesses was expected to testify in regard to the whereabouts of Mudd on the 23d of December last.

Mr. Doster stated that in the case of Payne he desired to call six additional witnesses, for the purpose of showing the antecedents of the prisoner, and the predisposition of the whole family to insanity. The processes for subpoenas in the cases of these witnesses were filed at least ten days ago, and they should either now appear, or some cause be shown for their continued absence. In the case of Atzerodt three witnesses remained to be called, by whom it was expected to impeach a witness called for the prosecution. These three witnesses, the speaker stated, had acknowledged to him the fact that they had been summoned; yet, notwithstanding that, they had not appeared.

Judge-Advocate Holt inquired the names of the witnesses not in attendance, who had acknowledged having been summoned.

Mr. Doster gave their names as follows: Associate Judge Olin of the District of Columbia; Marcus P. Norton and Henry Burden.

A DILATORY JUDGE AND WITNESS.

Judge Holt stated to the commission that the witnesses named had failed to appear after having been duly summoned as stated by counsel, and suggested the propriety of using compulsory measures to secure their attendance.

Mr. Doster said that he did not wish to be understood as asking for the arrest of the witnesses; that he would hesitate long before asking for the arrest of a Judge of the Supreme Court.

Judge Holt remarked that those who administered the law ought certainly to show obedience to it. He had understood that Judge Olin had adjourned his court to-day in consequence of the military review, which was taking place in Washington, and if the commission so ordered he would take measures to compel the attendance of that gentleman before the body as soon as possible.

Mr. Doster said that the testimony proposed to be taken in Payne's case was very material, inasmuch as the question of insanity could not be passed upon by Dr. Mitchell, whom the Court had permitted to see the prisoner, until Payne's antecedents were proven, and this could not be done, except by those absent witnesses.

Assistant Judge-Advocate Burnett then prepared an order, which was indorsed by the Commission, directing Gen. Hartranft, Provost-Marshal of the Court-room, to arrest and bring before the Court the witnesses named above who had failed to obey the process.

TESTIMONY OF FRANCIS R. FARRELL, CALLED FOR THE GOVERNMENT.

Q. Where do you reside? A. In Charles Co., Md.; I fell in with Dr. Mudd the day following the assassination; he came to my house on Easter Saturday, between 4 and 5 o'clock; he came down the main road which leads to Bryantown, and went back the same way; my house and Dr. Mudd's are about half way from Bryantown.

Q. When Dr. Mudd was at your house, was the assassination of the President the subject of conversation?

Mr. Ewing objected to the question on the ground that it was not rebutting evidence.

Judge Holt said that he could offer it as an expression on the part of the prisoner, and on that ground alone the court voted that the question should be answered.

The witness answered: I was in my house when Mr. Hardy who was at the yard gate with Dr. Mudd hallooed out to me that the President was assassinated and Mr. Seward and his son injured; I asked the doctor about it and he said it was so; I asked him who assassinated the President and he said a man named Booth; Mr. Hardy then asked him whether it was the Booth who was down here last Fall; the doctor said he did not know whether it was or not, as there were three or four by the name of Booth; if that was the one he knew him; the doctor said he was very sorry the thing had occurred.

Q. How long did Dr. Mudd remain at your house? A. Not more than fifteen minutes; he did not give the particulars of the assassination.

Cross-examined by Mr. Ewing—Dr. Mudd said it was the worst thing which could have happened; it made it a great deal worse for the country than while the war was going on; Dr. Mudd seemed to be entirely in earnest; Dr. Mudd came to see Mr. Hardy about some rail timber, and Hardy told him where he could get some; but Dr. Mudd said it was too far to haul.

EXAMINATION OF LEWIS B. HARKINS.

By Mr. Doster—I have known the prisoner, Atzerodt, for about ten years; during the latter part of February, or early in March last he was at Port Tobacco for a day or two; he may have stayed there longer than that; among those that knew him he has the name of being a pretty good-natured fellow, but lacking courage; I have known him on several occasions to act cowardly.

EXAMINATION OF EDWARD FRAZER.

By Judge-Advocate Holt—Q. State where you reside? A. I reside in St. Louis, and have resided there for eight or nine years.

Q. You may remember that within the last year or two there have been extensive burnings of steamboats on Western and Southern waters; state to the Court any knowledge you may have concerning agents of the Confederate Government, who were engaged in that business, and who they were? A. A man by the name of Tucker was one; Minor Meyers was another.

Q. Is he a Missourian? A. Yes, sir.

Q. Was he in the service of the Confederates? A. Yes, sir; Thomas L. Clark was another; a man by the name of Barrett was another.

Q. They were all agents of the Confederate Government, so-called? A. Yes, sir.

Q. State what business they were engaged in? A. Burning steamboats on the Mississippi, Ohio and other rivers.

Q. Was the man Barrett, of whom you speak, a lawyer, or had he ever been a member of Congress? A. I could not say; I have heard him called Col. Barrett.

Q. State how those men were associated together and what were their operations? A. Their operations consisted in burning steamboats carrying Government freight; boats that were used as army transports and some that were not so used.

Q. Do you know by means of what combustible materials those steamboats were burned? A. No, sir; I suppose it was done by matches.

Q. Will you enumerate the boats that were burned by the operations of these parties? A. The steamboats Imperial and Robert Campbell; the steamer Daniel D. Taylor and others were burned at Louisville; there were boats burned at New-Orleans, but I do not recollect their names.

Q. Were they large vessels? A. Some were large and some were small; they were owned by private parties.

Q. Was there any loss of life connected with the destruction of these vessels? A. There was on the Robert Campbell.

Q. Were they burned in the stream or while lying near the shore? The Robert Campbell was burned in the stream while under weigh.

Q. Was it understood that the agent was on board or that he had merely deposited combustible material in the vessel? A. He was on board.

Q. Where was that vessel burned? A. At Milliken's Bend, 25 miles above Vicksburg.

Q. Was there considerable loss of life? A. Yes, sir. Q. State whether this plan of operations embraced the destruction of the Government hospitals and storehouses? A. It embraced everything pertaining to the army.

Q. Do you know anything of the burning of a hospital at Nashville? A. I do not; all I know is that a certain man claimed compensation for it.

Q. Do you know the man who claimed compensation from the Confederate Government for that service? A. His name was Dillingham.

Q. What amount did he claim? A. He did not put any amount; he just put in a statement.

Q. To Richmond? A. Yes, sir.

Q. At what time was that hospital burned? A. In June or July, 1864; the fire occurred at night; I did not hear of any person being burned.

Q. State whether or not you have been in Richmond. A. I have.

Q. Did you, when there, have an interview with Jefferson Davis, the so-called President of the Confederacy, and with Benjamin, the Secretary of State? A. I was in Richmond from the 20th to the 25th day of August, 1864, and then had an interview with the Secretary of State, Secretary of War and Jefferson Davis.

Q. State what occurred at that interview? A. Mr. Thomas L. Clark, Dillingham, and myself went there in connection with boat burning and put in claims to Mr. James A. Seddon, to whom I was introduced by Mr. Clark; Seddon said he had thrown up that business, and that it was now in the hands of Mr. Benjamin; we went to Mr. Benjamin and presented our papers to him; he looked at the papers and asked me whether I was in St. Louis; I told him I was; he asked me if I knew anything about the papers; I told him I did, that I believed they were right; he then asked Mr. Clark if he knew me to be right; Mr. Clark said that I had been represented to him by Mr. Mayers as being all right; he told me to call again the next day with Mr. Clark and Mr. Dillingham; that he had shown the papers I left to Jeff. Davis, and he wanted to know whether we would not take \$30,000 and sign a receipt in full; we told him we would not do it; well, he said, then if Mr. Dillingham was to claim this thing at Louisville, he wanted a statement of that thing; we went back to the hotel, and I wrote out a statement myself; it read that Mr. Dillingham had been hired by Gen. Bishop Polk and sent to Louisville expressly to do that work.

Q. To burn the hospitals? A. Yes, sir; and I signed Mr. Dillingham's name to it; that was given to Mr. Clark; Mr. Clark took it over to Mr. Benjamin and made a settlement with him for \$50,000—\$35,000 down in gold and \$15,000 on deposit, to be paid him four months afterward, provided these claims proved correct; he gave us a draft on Columbia, S. C., for \$34,800 and \$200 in gold in Richmond; the draft we got cashed in Columbia, and brought the money along with us.

Q. You received the gold on that day, did you? A. Yes, sir; while there Mr. Benjamin said that Mr. Davis wanted to see me; I went in; Mr. Davis, Mr. Benjamin and myself sat there and talked; the conversation turned on a bridge between Nashville and Chattanooga—the "Long Bridge," they called it; Mr. Benjamin mentioned it first, I believe; Mr. Davis asked me if I knew where it was; I told him I did, but I did not; I had never been there; he said he wanted to know what I thought about destroying that bridge; that they had been thinking about having it destroyed; I told him I did not know what to think about it; he said I had better study it over; I finally told him I thought it could be done, and Mr. Benjamin—I think it was Mr. Benjamin—made the remark that he would give \$400,000 if that bridge was destroyed, and wanted to know if I would not take charge of the matter; I told him I would not have anything to do with it unless the papers were taken away from those men down there, and that nobody should be allowed to come up any more; they said it should be done; then the conversation turned on the burning of steamboats; I told Mr. Davis that I did not think it of any use to burn steamboats, and he said he was going to have that stopped; I then told him the best way to stop it would be to take the papers away from those men he had there immediately; that there were men lying about the South whose papers would run out, and that they would come back to get them renewed, and that it ought not to be done. He said that what I suggested should be done. I saw the next day a published order revoking those papers.

Q. These papers were permits or authority to do this work, were they? A. Yes, sir.

Q. He knew that you had received this pay for the work done? A. I presume he did; he knew that I had received money.

Q. The statements you made out were statements of the work done and the amount claimed. A. Yes, sir.

Q. What was the sum originally demanded? A. Fifty thousand dollars; he wanted to pay us at first \$30,000 in greenbacks.

Q. You expressed the opinion to Davis that no good was to be accomplished by burning their boats in that manner? A. I did.

Q. And he said he was going to abandon that policy? A. He did.

Q. He did not condemn what had been done? A. He did not condemn what had been done.

Q. He knew what had been done? A. He appeared to know.

Q. Did you come to any understanding about rates in regard to the destruction of the bridge? A. We came to an understanding that we were to receive \$400,000 for doing it; I asked Mr. Davis whether it made any difference as to where the work was done; he said it did not—that Illinois would do—that it would include anything pertaining to quartermaster's stores for the army, and that it ought to be as near to Sherman's base as possible—that Sherman was the man who was doing them more harm than any one else at that time.

Q. These men whom you have named, Barrett and others, were in the Confederate service? A. Yes, sir.

Q. Do you know where Minor Mayer is now? A. I have every reason to believe that he was in Canada, and that he left there and went to Bermuda Hundred; that was the last heard from him.

Q. Do you know whether all these men were members of any secret organization. A. They principally all belonged to a secret organization.

Q. What was the name of that organization? A. It goes by the name of the O. A. K. Organization.

A. The order of American Knights? A. Yes, sir.

Q. Will you say whether you were also a member of that order? No answer.

Q. You need not answer if by so doing you will criminate yourself? The witness made no reply.

Q. You say you are not able to say decidedly the process by which these boats were burned; were any combustibles beside matches used? A. I do not think there were.

Q. Do you remember the position which Barrett held in the Association? A. I understood he held the position of Adjutant-General of the State of Illinois.

Q. The Adjutant-General of the O. A. K.'s? A. I could not say whether of the O. A. K.'s or of the Sons of Liberty.

Q. Do you know whether Mayers and Barrett were in July last in Chicago? A. Mr. Mayers left St. Louis either last June or July to go to Canada, and I presume he went there by way of Chicago.

By the Court—Q. Was the steamer Hiawatha one of the number of those burned? A. She was.

Q. Do you recollect the number of lives that were lost then? A. I do not think there were any lost on the Imperial.

Q. She was one of the finest and largest on the Western waters, was she not? A. She was.

Q. Are you a steamboat man? A. Yes.

Q. What steamboats have you been running on? A. I was on the Von Phule last, Capt. Vanhahn.

EXAMINATION OF JOHN FORLEY.

A. Am acquainted with the prisoner, Dr. Mudd; reside in his neighborhood; on the day after the assassination met him about 200 yards from my house, when he said to me that there was terrible news—that the President had been killed, and that Mr. Seward and his son had been assassinated by a man named Boyle; Booth's name was mentioned somehow, and he said he did not know which of the brothers it was—that there were several; the conversation took place shortly after sundown on the 15th; he said nothing about the men having been at his house; I had seen Booth at the church there last Fall and asked his name, when I was told it was Booth, and at the time of the conversation I have stated with the prisoner, I asked him when Booth's name was mentioned, whether it was the same Booth who had been down there before, and he said he did not know.

Cross-examined by Mr. Ewing.—The conversation I have mentioned was commenced by the prisoner; he said he had got the news from Bryantown, where he had been; he seemed to feel all the sorrow that he expressed in regard to the assassination; the object of the prisoner visiting me at that time was in regard to some rail timber; when I first saw Booth down there, I think it was some time in November, and that it was about a month after when I saw him a second time; did not see or hear of any one having been with the prisoner when I met him.

By Judge Bingham.—The prisoner did not tell me from whom he had received the news of the President's assassination, and nothing more than he had heard it at Bryantown.

EXAMINATION OF ELI K. WATSON.

By Mr. Ewing.—Reside near Horsehead, Prince George County; have been acquainted with Daniel J. Thomas since he was a boy; his reputation in the neighborhood in which he lived, for veracity, is bad; from my knowledge of his general reputation, I would not believe him under oath; saw Thomas in my field on the 4th day of June; he then told me he was a witness against Dr. Mudd, and that Joshua S. Naylor had sworn to put down his oath, but that if his oath stood, he would get a portion of the reward offered for Booth.

Cross-examined by Assistant Judge-Advocate Bingham. The conversation in the field was begun by Thomas; he said he was going round to summon people as to his character, and that he was going to have me summoned as one.

Re-cross-examination of Marcus P. Norton.—I saw Booth play in Washington and in the City of New York; also in Boston; cannot tell how many times I saw him play; saw him at different time during the year; cannot remember any particular connection with Booth's representation on the stage because I never made any memorandum of such things, but frequently attended plays when away from home; was not personally acquainted with Booth; during my stay at the National Hotel I saw him in conversation with others beside the prisoners.

[The cross-examination of this witness was continued further, but failed to bring out any new points.]

EXAMINATION OF HENRY BURDEN.

I live in Troy, N. Y.; know the witness (Norton) who has just testified; his reputation for veracity is bad; I would not believe him on oath.

Cross-examined by Judge-Advocate Holt.—Have been interested in a patent concerning horse-shoes; Mr. Norton was engaged as counsel on the other side; cannot say that there was much ill-feeling occasioned by that controversy; did not form any opinion of Mr. Norton's character because of that controversy; was not acquainted with him at that time; my acquaintance with his character is based upon what I have known of him; my relations with him have not been either of a particularly friendly or unfriendly nature; when I declare to the Court that he is not to be believed on oath, I was giving expression to the opinion of the man of the people of Troy who know him; my opinion is arrived at from testimony by which he was impeached.

The Court then adjourned.

Resume of Thursday's Evidence.

WASHINGTON, Thursday, June 8, 1865.

The most important witness examined to-day was Edward Frazer, who resides in St. Louis. He gave an interesting account of the steamboat burning on the Mississippi, Ohio and other rivers, by agents of the Rebel Government, furnishing their names.

A witness was produced to show that Atzerodt, where he resided, was considered deficient in courage.

Another witness testified that on the day after the assassination Dr. Mudd expressed his regret that the President had been assassinated.