

TESTIMONY CONCERNING MICHAEL O'LAUGHLIN

WILLIAM WALLACE.
For the Prosecution—May 9.

On the 17th of April, I arrested the prisoner, O'Laughlin, at the house of a family named Bailey, on High Street, Baltimore. This was not his boarding-house. I asked him why he was there instead of at his boarding-house; he said that when he arrived in town on Saturday he was told that the officers had been looking for him, and that he went away to a friend of his on Saturday and Sunday night. When he was arrested, he seemed to understand what it was for, and did not ask any questions about it.

Cross-examined by Mr. COX.

Q. Did the brother-in-law of the prisoner send for you or go for you to arrest him?

Assistant Judge Advocate BINGHAM objected to the question. The brother-in-law is not the prisoner. The proposition is to show a declaration of the prisoner on his own motion, and at another time and place; it is the declaration of a third person, and I object.

Mr. COX. The object is to show that the prisoner voluntary [*sic*] surrendered himself by sending for the officer. The evidence offered on the part of the prosecution was designed to show that O'Laughlin was avoiding the arrest. In cross-examination, I desire to show that the arrest was made at the instance of the brother-in-law; and I propose to follow that hereafter, by proof that the prisoner himself sent his brother-in-law to communicate his whereabouts to the officer. I think that is legitimate on cross-examination.

Assistant Judge Advocate BINGHAM. It is not cross-examination; it is new matter altogether. We have not offered any evidence of what the prisoner said to his brother-in-law; this witness's testimony was as to what the prisoner said to him.

Mr. COX. It is not the declaration of a fact that I offer, but of an act done by the brother-in-law, on which the officer acted.

The Commission overruled the objection.

WITNESS. I am well acquainted with Mr. Maulsby. He was recommended to me on Sunday evening as a good Union man, one in whom I could put implicit confidence. He knew I was looking for O'Laughlin. I told him I wished him to assist me in getting him. He said he would do all he could to assist me. On Monday morning he came and told me that, if I would go with him, he thought he could find O'Laughlin, and I went with him to the house where we found him.

O'Laughlin, I think, said that when he got to his brother-in-law's house, on Saturday afternoon, he heard that the detectives had been there. He said he knew nothing of the assassination whatever, and could account for his whereabouts during all the time of his stay in Washington by the parties who were with him.

MARSHAL JAMES L. MCPHAIL.

For the Prosecution.—May 22.

Michael O'Laughlin, the prisoner, came into our lines about the time of the battles of Antietam and South Mountain. He came in at Martinsburg, I think, about September, 1863. He stated to me that he had taken the oath of allegiance at Martinsburg. I found in the records of my office, this morning, the oath of allegiance of one Michael O'Laughlin, dated Baltimore, June 16, 1863, and signed Michael O'Laughlin, and is, I believe, in the handwriting of the prisoner. I have seen a great deal of his handwriting within the last two or three weeks, and have no doubt the signature is his.

When O'Laughlin was first brought to my officer, he stated that he had not reported; he afterward sent for me to correct that error, and to say that he had reported at Martinsburg when he came into our lines, and had there taken the oath of allegiance.

By the COURT.

I only know of O'Laughlin being in the rebel service from his own declarations. Mr. O'Laughlin's family have resided in Baltimore as long as I can remember. I have known them, I suppose, for thirty years.

MRS. MARY VAN TINE.

For the Prosecution.—May 15.

I reside at No. 420 D Street, in this city, and keep rooms to rent. I see two gentlemen here [pointing to the accused Michael O'Laughlin and Samuel Arnold] who had rooms at my house. I am not positive, but I think it was on the 10th of February last they came. John Wilkes Booth came very often to see the prisoners, O'Laughlin and Arnold, but did not, as a general thing, remain very long. I was told by Arnold, when I inquired, that the gentleman's name was John Wilkes Booth. Sometimes Booth would call when they were out; sometimes he called two or three times before they returned. He generally appeared very anxious for their turn. Sometimes, when he found them out, he requested, that if they returned before he called again, that they would come to the stable. Or he sometimes left a note, going into their room to write it. Booth, who frequently came in a carriage, would sometimes inquire for one, sometimes the other, but I think he more frequently inquired for O'Laughlin. The only arms I ever saw in their rooms was a pistol; this I saw only once.

[Photograph of Booth exhibited to the witness.]

I recognize that as a likeness of Booth, but I should not call it a good one. I think him a better looking man than this is. The last time Booth played here, about the 18th or 20th of March last, when he played *Pescara*, I expressed a desire to see him, and Mr. O'Laughlin gave me complimentary tickets.

A man used sometimes to call to see them, and I think he passed one night with them, by his leaving the room very early one morning. I never heard his name. He was not what you would call a gentleman in appearance, but a very respectable-looking mechanic. His skin was hardened like that of a man who had been exposed to the weather, and he had sandy whiskers. I do not see him among the prisoners.

Arnold and O'Laughlin said they were in the oil business, but they did not say that they were connected with Booth in it. Letters occasionally came for them, but not a great many. The letters were sometimes addressed to one, sometimes to the other. Arnold and O'Laughlin left my house, I think, on the Monday following the Saturday on which Booth played at the theater; about the 20th of March.

Cross-examined by Mr. COX.

I think these gentlemen had been at my house two or three weeks when they said they were in the oil business. When they left, I understood they were going to Pennsylvania. Nothing was said by them at any time about having abandoned the oil business. They did not stay a great deal in their room, and they were sometimes out all night. I can not say whether Mr. Booth's visits were more frequent during February or March. He was a constant visitor. I never heard any of their conversations.

BILLY WILLIAMS (colored).

For the Prosecution.—May 15.

I know the prisoner, Mr. O'Laughlin, and I know Mr. Arnold by sight.

In March last I was going by Barnum's Hotel, when Mr. J. Wilkes Booth, the actor, came down the steps and asked me if I would take two letters for him. He told there was one for O'Laughlin, and the other he said I was to take to the number that was on it. He did not tell me who it was for. There was a colored fellow with me, and I asked him to look at it and see what it was, as I could not read writing. He told me one was for Mr. O'Laughlin, and the other was for Arnold. I took one to Mr. O'Laughlin at the Baltimore Theater, and one I carried to Mr. Arnold. As I was in a hurry, I gave it to a lady who was at the door, and she said she would take it up to him. I saw O'Laughlin at the theater, and gave him his letter there. I said, "Mr. O'Laughlin, here is a letter Mr. Booth gave to me," and I handed it to him.

Mr. COX. I must object to the whole of this evidence of the delivery of this note to O'Laughlin, and I desire, if the objection is sustained, that it be struck out of the record.

The JUDGE ADVOCATE. If the Court please, it is simply going to establish the intimacy of these men, their close personal relations with each other, as evidenced by their correspondence; and I think, in that point of view, it is clearly competent. We have presented them as visiting each other constantly. Now we are following them to Baltimore, and showing them as corresponding with each other constantly. Both facts go to establish an intimacy which is in accordance with the theory of the prosecution, which is, that they are co-conspirators. We do not offer the contents of the letter; simply the fact of their corresponding with each other.

Mr. COX. I object to any evidence of the acts of Booth himself. The act of sending a note to an individual, no matter what may be the contents of the note, would be no evidence against that individual, unless the contents were accepted and acted upon by him. The mere fact of intimacy alone is an innocent fact on the part of the accused, and therefore is not evidence, I think, of a conspiracy. I therefore object to it, in the first place, as an act of Booth to which the defendant is not a party at all. He could not help receiving a letter from Booth. The act of receiving a letter was an entirely innocent one. I object, furthermore, that even if it tends to show intimacy, it does not tend to prove the guilt of the party of the charge now made against him.

The Court overruled the objection.

Cross-examined by Mr. COX.

I think it was in March that I took the letters, because I heard Tom Johnson say it was March. I never took much notice of the months. It might have been the middle of March or toward the end. Mr. O'Laughlin's letter I took round to the Holliday Street Theater; it was in the afternoon, and I found him in the dress-circle. I know Mr. O'Laughlin right smart.

Cross-examined by Mr. EWING.

When Mr. Booth gave me the letters, he said that one was to go up to Fayette Street, above Hart, and I asked a lady at the door, and she read the direction to me. I asked Mr. Booth how his mother was, and he said very well; and he said he was going away to New York at half-past 3 o'clock.

JOHN HAPMAN.
For the Prosecution—May 18.

[Submitted to the witness a telegraphic dispatch.]

I have seen that dispatch before. It reads:

WASHINGTON, March 13, 1864.

To M. O'Laughlin, Esq., No. 57 North Exeter Street, Baltimore, Md.

Do n't fear to neglect your business. You had better come at once.

[Signed] J. BOOTH.

[The original of the foregoing dispatch was offered in evidence.]

This dispatch was sent by telegraph from this city to O'Laughlin March 13, 1865. We used the old printed forms of the year before, which accounts for the date being 1864. I knew J. Wilkes Booth, and saw him write that message.

Cross-examined by Mr. COX.

Q. Can you say whether this is a question or a command, "Do n't you fear to neglect your business?"

Assistant Judge Advocate BINGHAM objected to the question. The writing must be its own interpreter.

The Commission sustained the objection.

EDWARD C. STEWART.
For the Prosecution—May 18.

I am a telegraph operator at the Metropolitan Hotel in this city.

[A telegraphic dispatch was handed to the witness.]

I sent this dispatch myself over the wires to Baltimore; it is:

WASHINGTON, March 27, 1864.

To M. O'Laughlin, Esq., 57 North Exeter Street, Baltimore, Md.

Get word to Sam Come on, with or without him, Wednesday morning.
We sell that day sure. Do n't fail.

J. WILKES BOOTH.

[The dispatch was offered in evidence.]

I did not know the man who gave it to me; he wrote it and asked me to send it. I think I should know him if I were to see his photograph.

[The photograph of Booth shown to the witness.]

That is the gentleman who sent it. The true date of the telegram is March 27, 1865, not 1864.

Cross-examined by Mr. COX.

This paper does not show that the dispatch was sent last March, it is dated 1864, but that was because we used last year's blanks. I remember sending this very message this year; it was given to me by the gentleman whose photograph has been shown to me.

By the COURT.

I have been operator at the Metropolitan Hotel about ten months. I was not there in March, 1864.

SAMUEL STREETT.
For the Prosecution.—May 15.

I have known the prisoner, Michael O'Laughlin, from his youth. About the 1st of April last, I saw him in this city, conversing with John Wilkes Booth. They were conferring together in a confidential manner on the stoop of a house, on the right-hand side of the avenue going toward the Treasury Department; I do not know what house it was. There were three of them in company; Booth appeared to be the speaker of the party, and the third person was an attentive listener. I addressed O'Laughlin first, having known him more familiarly than I did Booth.

O'Laughlin called me to one side, and told me that Booth was busily engaged with this friend, or was talking privately. They were conversing in a low tone. The third party, as near as I can remember, had curly hair; he had on a slouch hat, and seemed to be in a stooping position, as though talking to Booth in a low tone, or attentively listening to Booth's conversation. *[Looking at the prisoners.]* I can not swear that the man is here.

Cross-examined by Mr. COX.

The house at which I saw Booth and O'Laughlin conversing was, I believe, on the avenue between Ninth and Eleventh Streets; I am not certain about the date, but I think it was nigh on to April. When O'Laughlin made the remark that Booth was engaged with his friend, it is likely that I asked O'Laughlin to propose to Mr. Booth to take a drink, and O'Laughlin's remark, that Booth was engaged with a friend, might have been in reply to my invitation.

BERNARD T. EARLY.
For the Prosecution.—May 15.

I am acquainted with the prisoner, O'Laughlin, and slightly with Mr. Arnold. I came down to this city from Baltimore on the Thursday before the assassination—the night of the illumination—with Mr. O'Laughlin; there were four of us in company. Mr. Arnold was not, to my knowledge, on the cars. When we arrived in this city, O'Laughlin asked me to walk with him as far as the National Hotel. He did not take a room there. I do not know that he made inquiries for Booth at the desk, nor did I see him associating with Booth. We stopped that night at the Metropolitan Hotel. On Friday I was with O'Laughlin the greater part of the day. When we got up, we went down and took breakfast at Welch's (Welcker's) on the avenue. After that, all four of us came up the avenue in company. When passing the National Hotel, about 9 o'clock, I think, I stopped to go back to the water-closet. When I came out, Mr. Henderson, one of the company, was sitting down. As I was going out, he called me back, and told me to wait for O'Laughlin, who was gone up stairs to see Booth. We waited, I judge, about three-quarters of an hour after that, when we were at a restaurant on the avenue, between Third and Four-and-a-half Streets, O'Laughlin came in.

O'Laughlin, Henderson, and myself had supper at Welch's, and the last time I saw O'Laughlin that night was at a restaurant, going out with Mr. Fuller. It was pretty late, but whether it was before or after the assassination I cannot say. O'Laughlin had been there for supper. We had been drinking considerably. The name of the present proprietor of the restaurant, I believe, is Lichau. I think, though I would not be certain, that O'Laughlin remained there until after the assassination. However, I distinctly remember seeing him go out in company with Mr. Fuller. Mr. Fuller used to be employed by O'Laughlin's brother in this city.

O'Laughlin returned to Baltimore with me next day, Saturday, by the 3 or half-past 3 o'clock afternoon train. After we arrived in Baltimore, on going down to his house, we met his brother-in-law on the way. He told Mr. O'Laughlin that there had been parties there that morning looking for him. O'Laughlin went into the house, and asked me if I would remain there awhile; after that he invited me to come in. I went in, and sat in the parlor, while he went up stairs to see his mother; he remained a few minutes, and then came down and said he was not going to stay home that night. I can not say that he appeared to manifest any excitement, except when he heard that there were parties after him because of his intimacy with Booth, having been acquainted with him, and in the habit of going with him, and from being supposed to be connected with him in the oil business.

Cross-examined by Mr. COX.

I came down to Washington with Mr. Henderson, who is, I believe, a Lieutenant in the United States navy, Edward Murphy, O'Laughlin, and myself. I was invited down by Mr.

Henderson. He came to the store after me that afternoon, and asked me to come down, with the intention of having a good time, and to see the illumination. I heard Mr. Murphy say that he invited them. Mr. O'Laughlin came to the store with Mr. Henderson, and Henderson invited me to go along with them. We slept at the Metropolitan Hotel on Thursday night. Henderson, Smith, and myself slept together in a three-bedded room, and O'Laughlin, whose name came last as we signed our names, had a room to himself. It was on the same floor as that on which we slept, and the second or third door from our room. It was about 2 o'clock on Friday morning when we went to bed. In the morning I rapped at O'Laughlin's door; I peeped in at the key-hole, and saw that he was in the room and asleep, and I woke him up.

I do not know for what purpose O'Laughlin called to see Booth. After waiting, I suppose, three-quarters of an hour at the National Hotel, during which time we had some cards written by a card-writer, we sent up some cards to Mr. Booth's room for O'Laughlin, that he might take it as a hint, and come down, for we were tired of waiting. The cards were returned with the message that there was nobody in the room. We left the cards with the clerk at the desk. O'Laughlin took a stroll round the city with us, and then four of us had dinner at Welch's; I do not the hour; it was between 12 and 2. After dinner we took another stroll. Whether O'Laughlin was with me or not I can not say. We had been drinking pretty freely, all of us. Between 4 and 5 O'Laughlin went with me to a friend's house to pay a visit to a lady. I was not well acquainted with the streets, and I asked him to go with me to find the place. The lady invited us to dinner. She took our hats, and we had to stay. We had a second dinner there, and left, I suppose, about 6 o'clock. We returned together to the Lichau House, and were found there by Murphy and Henderson. We staid there until about 7 or 8, and then went to Welch's and had supper. We were there when the procession of the Navy Yard men passed up the avenue. That was perhaps between 8 and 9 o'clock. After that I went back to the Lichau House, and sat there until I went to bed. O'Laughlin was there the best part of the evening. I was there when I heard of the assassination. It was, I believe, about 10 o'clock when I saw O'Laughlin go out with Mr. Fuller, but I could not say whether I saw him there when the news came or not. Mr. Henderson was in the bar-room, I believe, but Mr. Murphy had left us on the avenue previous to that.

When we came down on Thursday, it was our intention to go back on Friday; at least I understood so. I guess it was the liquor we had aboard that kept us. We did start to return by the 11 o'clock Saturday morning train. We went as far as the depot, and Mr. Henderson got the tickets. O'Laughlin wanted to go, and I said to Mr. Henderson, "If you press Mike, he will stay until the afternoon." So we all concluded to stay until the next train, at 3 o'clock in the afternoon.

Q. During this visit did you see any thing in Mr. O'Laughlin that betrayed a knowledge of any thing desperate which was to take place?

Assistant Judge Advocate BINGHAM objecting to the question, it was varied as follows:

Q. During this visit, state what his conduct was.

A. His conduct was the same as I usually saw him—jovial and jolly as any of the rest of the crowd.

Q. In good spirits?

A. Yes, sir; he was particularly so coming down in the cars with us that Thursday evening.

Q. No nervousness?

A. No, sir.

When O'Laughlin got to Baltimore and went to his house, he went up stairs, I suppose, to see his mother. On returning he said he would not stay at home that night. The remark he made was, that he would not like to be arrested in the house; that it would be the death of his mother. I told O'Laughlin that I thought it best for him to stay at home until the parties who were looking for him came again; but he said no, it would be the death of his mother if he was taken in the house.

Re-examined by the JUDGE ADVOCATE.

We, all four of us, returned to the Metropolitan Hotel between 1 and 2 o'clock, I suppose, when we went to bed; that is, on Friday morning. After having supper on the Thursday evening, we went to see the illumination, and walked a considerable distance up the avenue. After returning, we went, at the invitation of Mr. Henderson, to the Canterbury Music Hall. O'Laughlin was not separated from us during that night.

JAMES B. HENDERSON.

For the Prosecution.—May 15.

I am acquainted with the prisoner, Mr. O'Laughlin. I saw him in this city on Thursday and Friday, the 13th and 14th of April. I do not know whether he visited J. Wilkes Booth on either of those days, but he told me on Friday that he was to see him that morning.

Cross-examined by Mr. COX.

He only told me he was to see Booth, but did not say what for. I can not tell exactly whether he said he had an engagement.

DAVID STANTON.
For the Prosecution.—May 16.

I have seen that man with the black moustache before, [pointing to the accused, Michael O'Laughlin.] I saw him on the 13th of April, the night before the assassination, at the house of the Secretary of War. I saw him pass in the door, and take a position on one side of the hall. I asked him what his business was, and he asked me where the Secretary was, and I told him he was standing on the steps. He said nothing further, but remained there some minutes, until finally I requested him to go out. He followed me out as far as the gate on the left-hand side of the house, and that was the last I saw of him. He did not ask for any one else besides the Secretary, nor did he explain why he was there. At first I supposed he was intoxicated, but I found out, having some conversation with him, that he was not.

General Grant was in the parlor. He and the Secretary were being serenaded. O'Laughlin could see General Grant from his position. He did not inquire for any one but the Secretary, and after I pointed him out he did not go to him, and did not tell me what his business was. I did not see him go away from the house; there was such a crowd there. That was, I presume, about half-past 10 o'clock.

Cross-examined by Mr. COX.

That was the first time I ever saw this man, and I did not see him again until I saw him on the Monitor as a prisoner, on the day on which Booth's body was taken away from the vessel. I can not be sure as to the exact time when I first saw the man; the fireworks commenced at about 9 o'clock and lasted about an hour and a half, and it was after they were over. He was dressed in a suit of black; dress-coat, vest and pants, and his hat, which was a black slouch hat, I think, he had in his hand. The hall was very well lit up; the parlor, where General Grant was sitting, was also lit up, and I was directly in front of him when I addressed him.

He was inside of the door, about ten feet, standing next to the library door. He was about five feet four inches in height [*sic*]. When I saw him on the Monitor he stood up, but I had an indistinct view of him there, as it was dark. I thought the man was intoxicated, from the way he came into the house. I inquired, before I went to him, of different members of the family, if they knew him. Finding they did not know him, I addressed him, and requested him to go out, which he did, going after me. There were a good many people about. The Secretary of War and Major Knox were on the door-steps, and this man had got between them. He had, I think, the same moustache and beard that he has now; I see no change, with the exception of that caused by the want of shaving.

MAJOR KILBURN KNOX.
For the Prosecution.—May 16.

I was at the house of the Secretary of War, in this city, on the evening of the 13th of April, last, and saw there a man whom I recognize among the prisoners. There he is, [pointing to the accused, Michael O'Laughlin.] I left the War Department at 10 o'clock, after the illumination there was over, and walked up to the Secretary's House. There was a band playing at the house, and on the steps were General Grant, Mrs. Grant, the Secretary, General Barnes and his wife, Mr. Knapp and his wife, Miss Lucy Stanton, and two or three small children. I was standing on the upper steps, talking to Mrs. Grant and the General. Some fireworks were being set off in the square opposite, and I stepped down a little to allow the children to see them. I got down on the step, I think, next to the last one, leaning against the railing, and this man [O'Laughlin] came up to me, after I had been there ten minutes probably, and he said, "Is Stanton in?" Said I, "I suppose you mean the Secretary?" He said, "Yes." I think he made the remark, "I am a lawyer in town; I know him very well." I was under the impression he was under the influence of liquor. I told him I did not think he could see him then, and he walked to the other side of the steps, and stood there probably five minutes. I still staid there, I suppose, for about five minutes, and he walked over to me and said, "Is Mr. Stanton in?" and then said, "Excuse me, I thought you were the officer on duty here." Said I, "There is no officer on duty here." He then walked on to the other side of the steps, and walked inside of the hall, the alcove, and stood on the inside step. I saw him standing there, and I walked over to Mr. David Stanton and said, "Do you know that man?" He said he did not. I said to him, "He says he knows the Secretary very well, but he is under the influence of liquor, and you had better bring him out." Mr. David Stanton walked up to him, talked to him a few moments, and then took him down the steps. He went off, and I did not notice him again. He did not say any thing about General Grant. By that time, I think, the General had gone into the parlor.

I think the Secretary stood on the steps outside, and this man stood behind the Secretary, and from where he stood he could see into the parlor. On the left-hand side of the hall, going in, is the library; on the other side is the parlor door. He stood on the side next to the library, and in that position he could have looked into the parlor, and seen who was in there, through the door. The whole house was lighted up, and I feel pretty certain that the prisoner, O'Laughlin, was the man I saw.

Cross-examined by Mr. COX.

I do not recollect whether it was moonlight or dark that evening. There was a great crowd round the Secretary's house, and close up to the steps. I did not notice the man until he walked up on the steps and spoke to me, and after he went out again I saw him no more. I did not go inside the hall while he was there. Secretary Stanton was on the left-hand side of the steps, talking to Mrs. Grant, and the man went up on the right-hand side past them, and went in and took a place on the left-hand side. He had a black slouch hat,

a black frock-coat, and black pants; as to his vest I can not say. That was while the fireworks were going on. I had never seen the man before. I have seen him once since in this prison; I came here a week ago last Sunday for the purpose of identifying him.

MR. JOHN C. HATTER.
For the Prosecution.—May 16.

I recognize that man, sitting back there, [pointing to the prisoner, O'Laughlin.] He is the man I saw at Secretary Stanton's house at about 9 o'clock, or after, on the night of the illumination, the 13th of April.

I was standing on the steps looking at the illumination, and this man [O'Laughlin] approached me, and asked me if General Grant was in. I told him he was. He said he wished to see him. Said I, "This is no occasion for you to see him. If you wish to see him, step out on the pavement, or on the stone where the carriage stops, and you can see him." That was all that occurred between us. He did not attempt to go into the house. When he spoke to me, he left the steps and walked away toward the tree-box, talking as he went, but I did not understand what he was saying. He seemed to reflect over something, and came back; then he walked off, and I did not see him any more. The house was illuminated, and it was pretty light outside, too.

Cross-examined by Mr. COX.

I am a sergeant in the Adjutant-General's service, at the War Department, on duty at the Secretary's room. To my knowledge, I had never seen the man before that evening. The next time I saw him was last Sunday week, in prison, in this building. I came down here with Major Eckert and Major Knox. I did not know what I was coming for; but when I was inside the room, and looking round, I saw that man, and I thought to myself, "I see the object of my coming down."

The first time I saw him it was very light, and he had on a dark suit of clothes, with a heavy moustache, black, and an imperial, and the way I took so much notice of him was, while I was speaking to him he was standing a little lower down, and I was looking right in his face.

He wore a dark slouch hat, a little low, and dark dress-coat and dark pantaloons. I should judge him to be about five feet four or five inches. There was a crowd about the house, come to serenade the Secretary; four or five bands were there. The Secretary was in the parlor with General Grant; they had not come out then; there was nobody on the steps but me. Both doors were open, the front door and another door like the front entry, and the gas was fully lit all around.

MARCUS P. NORTON.

For the Prosecution.—June 3.

From about the 10th of January until about the 10th of March, I was stopping at the National Hotel in this city. I knew J. Wilkes Booth, having seen him several times at the theater. I saw the prisoners, George A. Atzerodt and Michael O'Laughlin, at the National Hotel prior to the inauguration of President Lincoln, in company with Booth. I saw Atzerodt twice, and O'Laughlin four or five times, I believe, in conversation with him.

Cross-examined by Mr. COX.

When I saw O'Laughlin talking with Booth at the National Hotel, he was in the presence of other people, and in the hall, but there was no one else in company with them. I heard no portion of the conversation. It was during the two months I was there, but I can not fix the precise date.

See also the testimony of

Marcus P. Norton Page 177

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DEFENSE OF MICHAEL O'LAUGHLIN

BERNARD J. EARLY.

Recalled for the Defense.—May 25.

By Mr. COX.

We left Baltimore on Thursday, the 13th of April, by the half-past 3 o'clock train, and arrived here about half-past 5. After leaving the cars, we went along the avenue to a restaurant kept by Lichau, I think it is called Rullman's Hotel. We remained there but a short time. Mr. Henderson went into the barber's shop to get shaved; while he was in there, Mr. O'Laughlin asked me to walk down as far as the National Hotel with him. I did so; when there, he walked up to the desk and inquired for some person, and told me to wait; that I did not want to miss the rest of the party. He said he would not detain me more than ten or fifteen minutes, and left me standing in the front door. He then went in, and returned again in from three to five minutes. Henderson had not got through with his shaving by the time we got back. We all four then walked up the avenue, I guess as far as Eleventh Street; then returned, and went into Welch's dining-saloon for supper. This saloon is over Wall & Stevens'. We left there about half-past 7, and returned to

Rullman's Hotel, and proceeded from there down as far as the corner of Third Street, where O'Laughlin and Murphy left Henderson and me, saying they were going around to see Mr. Hoffman, who was sick, and who lived on B Street. They returned in ten or fifteen minutes with Mr. Daniel Loughran. All five of us then started up the avenue to see the illumination. About Seventh Street, one of the party complained of having sore feet, and said he would not go any further. Seeing a notice of the Canterbury Music Hall performances, we all went there, and got in about at the end of the first piece. It was then getting on for 9 o'clock. We remained there till 10 o'clock, when we proceeded to the Metropolitan Hotel, and from there down to Lichau's or Rullman's Hotel, reaching there about half past 10. O'Laughlin was with us all the time. We remained at the hotel about an hour, I suppose. As we were there on the steps, Mr. Grillet passed by with a lady, and spoke to Mr. O'Laughlin. We left there with Mr. Giles, one of the men of the house, and went down as far as Second Street. I believe Mr. O'Laughlin is acquainted at the saloons on the corner of B Street and Second. There was a dance or some thing going on there. He took the lead over there and we followed him. One of the party bought tickets to go back into the ball. We did not stay there more than about an hour; we got tired of the affair and came out. We then went up the avenue, stopped at several places, and went into the Metropolitan Hotel, between 1 and 2 o'clock. We went out again for about five minutes, and returned at about the hour of 2, when we went up stairs to bed. Mr. O'Laughlin was with us all that night.

I do not know where Mr. Stanton's residence is; but I know the situation of the Treasury Building.

Q. Mr. Stanton's house is six squares north of that, and one square east; I ask you if it is possible that Mr. O'Laughlin could have been at Mr. Stanton's at 9 o'clock or at any time between that and 11 o'clock.

Assistant Judge Advocate BINGHAM objected to the question, and it was waived.

WITNESS. On Friday night, O'Laughlin was in Rullman's Hotel from about supper time until he went out with Mr. Fuller. We, had supper at Welch's at about 8 o'clock, and I suppose we staid there from about three-quarters of an hour to an hour. From Welch's we went to Rullman's. Whether Mr. O'Laughlin went out with Mr. Fuller before or after the assassination I can not say, but I distinctly remember his going out with him.

Mr. O'Laughlin had on a dahlia coat—something of a frock—a double-breasted vest, and pantaloons of the same material—a Scotch plaid, purple and green. I made these things for him.

Cross-examined by ASSISTANT JUDGE ADVOCATE BINGHAM.

On Friday evening, about 10 o'clock, I suppose, we were all under the influence of liquor. We might have drank as many as ten times; it was mostly ale, though, that Mr. O'Laughlin and myself drank. I hardly ever say him drink liquor. I was not separated from

O'Laughlin until he went out from Rullman's Hotel. That was about 10 o'clock, or a little after. I next saw him again in Saturday morning. Rullman's Hotel is between Third and Four-and-a-half Streets.

By Mr. COX.

I have very seldom, if ever, seen Mr. O'Laughlin drink whisky. I have seen him intoxicated but twice. I have known him slightly for about four years, and intimately for the last ten months.

EDWARD MURPHY.
For the Defense.—May 25.

By Mr. COX.

I reside in Baltimore. On the 13th of April last, in company with James B. Henderson, who proposed the trip, Michael O'Laughlin, and Barney Early, I came to Washington. We arrived here about 5 in the afternoon. From the depot we went to Rullman's, had a drink or two, and started for the Metropolitan. We went to several places; took supper at Welch's, somewhere about 8 o'clock. We were there about half an hour, and then came down to Rullman's again. There we met, I think, John Loughran, and took a walk up the street to see the illumination of the Treasury, and stopped on the corner of Ninth Street and the avenue. After standing debating there some time, we went to the Canterbury Music Hall, staid there some time, walked down to the Metropolitan Hotel, and then came back to Rullman's. It was about a quarter to 10 when we got into Rullman's. O'Laughlin was with us all the time. Then we went up to Platz's and back again. That brought us to about half-past 11 or 12. We then started down to Riddle's, on the corner of Second Street, where we staid until half-past 12 or 1; from there we went to Dubant's, on the corner of Sixth and the avenue, where we took a hack, and went to the corner of Tenth and the avenue. There is an all-night house there, and we went in got some refreshments. I suppose it was about half-past 1 when we were there. It was about 2 o'clock when we got to the Metropolitan and registered our names. Before going to bed, we went across the street to Gilson's and got a drink. It made it about half-past 2 when we got to bed. Michael O'Laughlin was with us all the time from leaving the cars until we all went to bed, except that when we first came down, while Henderson was being shaved. O'Laughlin and Early left us for about five minutes and went as far as the National Hotel. They were back before Henderson was shaved; were not gone more than five or six minutes.

I think I know where the house of Mr. Stanton, the Secretary of War, is, and O'Laughlin was no nearer to it that night than the corner of the Ninth and the avenue.

I was with him all day Friday and up to 8 o'clock that night, when I went to the Metropolitan Hotel, and did not see him again until Saturday morning. On Saturday I was with him from 9 o'clock in the morning till we went to the depot to go to Baltimore. I did

not know of the assassination till 9 o'clock Saturday morning. I never saw O'Laughlin in better spirits in my life than he was during this trip. When we started from Baltimore, it was our intention to go up on Friday afternoon, but we staid in Washington at the solicitation of Mr. Henderson, who wanted to see a lady friend of his that night, and the whole party staid on that account. I remember Mr. Grillet joined us on the steps of the Rullman Hotel on Thursday night.

Recalled for the Defense.—May 25.

By Mr. COX.

I saw O'Laughlin in Baltimore on the Sunday after the assassination, and he told me that the officers were in search of him, and that he was going to surrender himself on the Monday following.

JAMES B. HENDERSON.

Recalled for the Defense.—June 12.

By Mr. COX.

I am an Ensign in the United States Navy. I have been acquainted with the prisoner, Michael O'Laughlin, for about six years. I proposed to him that we should come to Washington on Thursday, the 13th of April, and we left Baltimore at 3:30 on that afternoon, arriving in this city between 5 and 6, I judge. On our arrival, we came up the avenue, and stopped at the Lichau House, or Rullman's Hotel. I went into the barber's shop adjoining to get shaved, and O'Laughlin went up the street in the mean time, but he returned before I had finished shaving, and, with the exception of that, he was not out of my company the whole evening until bedtime. I went up the avenue to look at the illumination. We did not go up as far as Ninth Street. We stopped at the corner of Seventh, and then went back to the Canterbury Music Hall. We reached there about 9 o'clock; after staying there perhaps three-quarters of an hour, we returned to Rullman's Hotel. We got there between 10 and 11, and staid about half an hour there. I retired for the night, at the Metropolitan Hotel, at between 1 and 2 o'clock in the morning.

The avenue was very much crowded. It was almost impossible for a person to get along, and we did not go further west than a little beyond Seventh Street, on Thursday evening; O'Laughlin was not any where in the neighborhood of Franklin Square—Mr. Stanton's; he was with me all the time, except when I was being shaved. I do not know certainly whether he slept at the Metropolitan that night; I saw him in his room, and was there the next morning when they called him. On the Friday afternoon he left me in company with Mr. Early, I think, but I met him again in the evening at Rullman's Hotel. He was there with me until 10 o'clock I should think, and then he went out with a man named Fuller. He was there when the news of the President's assassination came. Our party had arranged to return to Baltimore on Friday morning, but I proposed to them to stay until Friday evening.

Cross-examined by the JUDGE ADVOCATE.

I do not know the name of the street on which Mr. Stanton resides, but I have been shown the house. It was impossible for O'Laughlin to have been there on the evening of Thursday, the 13th of April, for I was with him the whole evening. There was a good deal of free drinking that night by our party, and it was continued until a late hour. It would be impossible for me to say how many drinks we had; I should think not more than ten. They were mostly taken at hotels and restaurants on the avenue. One of the party was drunk—Mr. Early—but the others were sober enough, I think, to be conscious of each other's movements, or presence, or absence.

O'Laughlin left me but for a short time on our arrival in Washington, while I got shaved, and told me he had been to see Booth. That was between 5 and 6 o'clock. I knew of his going to see Booth the next morning at the National Hotel, and I went there to call for him, but found he had left. On going back to Rullman's, I found he was there, and he said he had been to the National Hotel, but Booth was out. I do not know of any other attempt on his part to see Booth, nor do I know his object in seeking that interview.

By Mr. COX.

O'Laughlin did not say anything to me about Booth owing him any money, and that he wanted to get some from him. He only told me that he had been to see him; he did not say whether he had seen him or not; and on Friday he said that he had been to see him, and he was not at home.

By the JUDGE ADVOCATE.

I had no particular reason for not returning to Baltimore on Friday; I wanted to stay a little while myself, and asked the others to stay. O'Laughlin himself had not spoken of staying over. It was on the Wednesday that we arranged to come to Washington on the Thursday; I proposed that we should come down on that day. I do not remember that O'Laughlin made any suggestions about it; I think I asked him to come down. I had been on terms of intimate association with him for only about a week previous to that.

DANIEL LOUGHRAN.
For the Defense.—May 25.

By Mr. COX.

I reside in this city. I have known the accused, Michael O'Laughlin, for eighteen or twenty months. On Thursday evening, the 13th of April, at about a quarter past 7, I saw him in front of Rullman's Hotel, on Pennsylvania Avenue, in company with Lieutenant Henderson, Edward Murphy, and Bernard Early. I did not join them then; I went home to supper. O'Laughlin and Murphy came to my boarding-house, and we met Henderson and

Early in front of Adam's Express Office, on Pennsylvania Avenue; that was about 8 o'clock. After we joined them, we went into Platz's Restaurant and from there to Rullman's Hotel. From Rullman's we went up to the corner of Pennsylvania Avenue and Ninth; it was about 9 o'clock then, for I looked at my watch. We then went into the Canterbury, staid there until 10 or perhaps half-past; from there we went to the Metropolitan Hotel, and then to Rullman's, reaching there probably at half-past 10; perhaps a little earlier or later. Michael O'Laughlin was with me from the time we joined Henderson and Early until we went down to Rullman's Hotel.

I do not know where Mr. Stanton's house is, but I know where Franklin Square is, and I know that O'Laughlin could not have been up there during that time. Mr. Grillet joined us at Rullman's Hotel at about half-past 10, and I was with them until after 12 o'clock. O'Laughlin was there all that time.

I saw them the next evening, I judge, between 7 and 8, and Rullman's Hotel; I was there until perhaps half-past 9. I do not know that they went to Welcker's; I heard them speaking about going to supper, but where they went I do not know, nor do I know whether O'Laughlin went to supper. I did not miss him from the time I went home, and saw him no more that night. O'Laughlin wore a plaid vest and pants; the pants he wears now look like the ones. I think he had on a black slouch hat.

By the COURT.

We occupied different seats at the Canterbury play-house; two of us sat on one seat, and the other two sat right behind. I saw them there all the time, and we all left together.

By Mr. COX.

O'Laughlin seemed very lively. The remark was made that they had come down from Baltimore to see the illumination and have a good time. I do not think he was intoxicated on Thursday evening; he was lively and merry, but I cannot say he was tight or drunk.

GEORGE GRILLET.
For the Defense.—May 25.

By Mr. COX.

I reside in Washington, and am solicitor for the New York Cracker Bakery, 96 Louisiana Avenue. I have known the accused, Michael O'Laughlin, one or two years. I saw him on the steps of Rullman's Hotel, between 10 and half-past 10, on the night of Thursday, the 13th of April, and he bowed to me. Lieutenant Henderson and Edward Murphy were with him, and Henry Purdy, the superintendent of the house, was on the porch, I believe. After I had escorted home the lady that was with me, I returned to the house and joined the party, and did not leave them until between 12 and 1 o'clock. I saw O'Laughlin the next morning, and then not until 8 o'clock at night; I staid with him until between 11 and 12. I

was at the Lichau House or Rullman's Hotel, when I heard the news of the President's assassination. O'Laughlin was there at the time. I did not notice how he behaved when he heard of the assassination. He left shortly after the news came that the President was killed; he and a man named Fuller left together. On that evening I know he had on a Scotch plaid vest and pants; I can not swear positively to the coat, but he had a habit of wearing a sack-coat.

HENRY E. PURDY.
For the Defense.—May 25.

By Mr. COX.

I am superintendent of Rullman's Hotel in this city. I saw the accused, Michael O'Laughlin, at about half-past 10 on the night of Thursday, the 13th of April, with George Grillet, Loughran, Murphy, and Early; I do not know where they came from. I was principally in the kitchen and the dining-room, and walking around; in the bar only occasionally. Whenever I was in the bar they were there, until a few minutes after 12 o'clock, when I closed up, and they went out at the side door. I am confident that O'Laughlin was with them when they came there at about half-past 10; I have known him about three months. I saw them again on Friday at the same place.

I was standing in front of the door when I heard of the assassination, and I went in and told them what I had just heard from a cavalry sergeant; that the President had been assassinated, and that Booth was the one who had done it. They were all standing together drinking. O'Laughlin was right at the end of the bar, and he was the one I first spoke to when I went in.

When I went in he seemed surprised, and said he had been in Booth's company very often, and people might think he had something to do with it. I do not remember when he individually left that night, but it was after 12 when the whole party was gone. He has staid at my house when he has come down to the city.

By the COURT.

Sometimes he would come down pretty often in a week, and sometimes I would not see him for two weeks. On the Thursday night he had dark clothes on; he generally wore dark clothes. I did not take particular notice of his dress, and can not say whether it was the same as that he now wears.

JOHN H. FULLER.
For the Defense.—May 25.

By Mr. COX.

I am engaged in business in this city. I have known the accused, Michael O'Laughlin, for twelve or fourteen years. On Friday, the 14th of April, I saw him at Rullman's, on the avenue between 7 and 8 o'clock, and again between 10 and 11. He and I were both there when the news of the President's assassination was brought in, and we left there together to go to the Franklin House, where I was stopping. He staid all night with me, and got up about 8 o'clock the next morning, and went with me to New Jersey Avenue, and then to the Lichau House, and there I parted with him; he joining his other friends there. When he heard of the President's assassination, he did not show any fright, nor did he say any thing about Booth; he said he was sorry for it; that it was an awful thing.

Cross-examined by ASSISTANT JUDGE ADVOCATE BINGHAM.

O'Laughlin was stopping at another hotel, but I invited him to go with me that night; he used to go down there with me at times to stay. I do not know where he stopped on Thursday night.

By Mr. COX.

He used to reside in Washington; his brother was in business here.

JOHN R. GILES.
For the Defense.—June 3.

By Mr. COX.

I am bar-tender at No. 456 Pennsylvania Avenue, late Rullman's Hotel. I have known the accused, Michael O'Laughlin, personally, about four months. He was at our place on the evening of Thursday, the 13th of April, with Barney Early, Murphy, Lieutenant Henderson, Purdy, and several others. He was there early in the evening, and again about 10 o'clock, and staid till after 11. I joined them when they went out, and was with them until 1 o'clock. They were there again on Friday evening, nearly all the evening. The news of the assassination came in, I think, between half-past 9 and 10; and O'Laughlin was there at that time. He afterward went out with Mr. Fuller. The Lichau House is on Louisiana Avenue, between Four-and-a-half and Sixth Streets, and the Canterbury Music Hall is next door.

Cross-examined by ASSISTANT JUDGE ADVOCATE BINGHAM.

It might have been after 10 o'clock that the news of the President's assassination was brought in—I can not say exactly. O'Laughlin was at our house on Friday evening from 7 or 8 o'clock till 11. He was out on the pavement, and in and out drinking, but was not away from the house.

P. H. MAULSBY.
For the Defense.—May 26.

By Mr. COX.

I am a clerk with Eaton Bros. & Co., of Baltimore, and am brother-in-law to the accused, Michael O'Laughlin. O'Laughlin, I believe, came from the South to Baltimore in August, 1862. He came home somewhat sick. He then went with his brother, who was in the produce and feed business, and remained with him until the fall of 1863. His brother then sold the business, but Michael O'Laughlin remained here and received orders, which his brother supplied from Baltimore. O'Laughlin was here off and on from that period up to the 14th of March.

I knew J. Wilkes Booth intimately. Mrs. Booth owns the property on which the O'Laughlin family resides, and Mrs. Booth lived opposite for four years. The boys, Michael and William, were schoolmates of J. Wilkes Booth. To my knowledge, their intimacy has continued for twelve years.

After leaving Washington, the home of Michael O'Laughlin was with me, at 57 North Exeter Street. From the 18th of March to the 13th of April he was with me, and from the 30th of March to the 12th of April, I can speak positively as to his being with me at Baltimore. I knew he was at home on the 7th of March, and remained at home some days. I know of his being sent to Washington by his brother on the 13th of March, and on the 14th his brother telegraphed him here respecting a car-load of hay.

[A telegraph dispatch relating to the hay was read and put in evidence.]

He returned to Baltimore on the following Saturday, and from that time he remained at home till he came to Washington on the 13th of April. In February, I could not state positively as to his being at home. He was at home on the 7th and on the 14th, and my impression is that he was then home for a couple of weeks.

Q. At what time did he arrive at home after the assassination?

A. He came up on Saturday evening; I saw him about 7 o'clock.

Q. Had the officers been to his house then in search of him?

A. They had.

Q. Did you inform him of that?

A. I did.

Q. Then what took place?

A. He told me that—

Assistant Judge Advocate BINGHAM objected to the accused giving his own declarations in evidence, for the reason that he had stated yesterday, in regard to a similar question, to which he had been sustained by the Court, that if such a rule as that were adopted and acted upon by courts, all that a guilty man would had to do, after he had committed a great crime, would be to pour his statements into the ears of all honest people that he met up to the time of his arrest, and then prove those statements on his trial. The law says that he shall not do any such thing, and I object to it on that account.

Mr. COX stated that he desired to prove by this witness, that the prisoner, Michael O'Laughlin, was informed that the officers had been in pursuit of him; that he informed the witness that he had had an engagement on Saturday night, but would communicate with him the next day; that on Monday he did send for him to come to him, and authorized him to procure an officer, and put himself in his custody, declaring all the time his entire innocence of any complicity with this affair.

The JUDGE ADVOCATE said the witness should be instructed that he is not to give the declarations of the prisoner, but simply his acts, in evidence.

Q. You say you informed him on Saturday afternoon that the officers had been in search of him?

A. I did.

Q. Did he protest his innocence?

Assistant Judge Advocate BINGHAM objected to the question. There was no authority in the world for such a question as that; it was a burlesque upon judicial proceedings.

Mr. COX insisted on the question. If a party flees and avoids arrest, it would certainly be receivable for the prosecution; but if he candidly comes forward and says, "I am not guilty, and I offer myself for investigation and trial," it should equally be receivable for the defense.

The JUDGE ADVOCATE stated that that was not the rule of law. The Government could give the declarations of the accused in evidence, but it did not follow from that that the prisoner could.

Mr. COX replied that where it was a part of his conduct, he could. He could not prove his innocence by declaring himself so, but where it was part of his conduct it was receivable upon the question of how far he was conscious of guilt.

The Commission sustained the objection.

WITNESS. On Monday morning Michael O'Laughlin authorized me to procure an officer, and voluntarily surrendered himself.

I have known O'Laughlin for about twelve years.

Q. State his disposition and character; whether he is violent and bad-hearted, or, on the contrary, amiable, mild-tempered, etc.

A. As a boy, he was always a very timid boy. From my observation of twelve years, I believe him to be the last one who would have any thing—

Assistant Judge Advocate BURNETT. What you believe is not in evidence.

Mr. COX. I meant to ask the witness whether, from his knowledge of the accused, he believes him capable of being engaged in any thing of this sort.

Assistant Judge Advocate BINGHAM. I object to his swearing to conclusions. He can state the general character of the accused, but he can not swear to conclusions. This is a matter exclusively for the Court.

WITNESS. I was merely about to speak of his capability, judging from my observation of his disposition.

Assistant Judge Advocate BINGHAM. You can state his disposition.

Q. State what his disposition is as to amiability, peacefulness, etc.

A. I have always regarded him as an amiable boy.

Q. Was he violent on political questions?

A. I never recollect having seen him in a passion in my life. On political questions he has never been violent. I have never heard him express any opinion, except in a very moderate way, on the issues of the times.

Q. There has been some testimony by Mr. Wallace about the arrest of the accused. I would like you to state the facts in regard to that alleged arrest, and what Mr. Wallace had to do with it. In the first place, I will inquire whether Michael authorized you to go for an officer?

Assistant Judge Advocate BINGHAM. That I object to.

Mr. COX. Then I will ask the witness whether he went for an officer, and whom he procured.

A. The facts in the case are simply these: When I met Michael I suggested to him—

Assistant Judge Advocate BINGHAM. You need not state any thing that you said to Michael.

Q. State what you did after leaving him on Monday morning.

A. On Monday morning he sent for me and said—

Assistant Judge Advocate BINGHAM. You need not state what he said.

Q. What did you do in consequence of what he said to you?

Assistant Judge Advocate BINGHAM objected. The question assumes that the accused told the witness something, and the witness was asked to swear that, in consequence of what the accused told him, he did something else. The counsel has no right to assume any thing here as proof that was not proof; and more especially he had no right to assume as proved what was incapable of being proved—the declarations of his client.

Mr. COX replied that the whole object of the inquiry was to ascertain, for the satisfaction of the Court, whether the accused, with that consciousness of innocence which would govern a man who was innocent, did really act in accordance with that consciousness, by voluntarily submitting himself to the officers of justice, professing his willingness to submit to an investigation. If the flight, which the prosecution have attempted to prove, was evidence of guilt, certainly it was competent for the defendant to meet that evidence by proof, on the contrary, that there was no flight, no evasion, but a voluntary submission to the officers of the law, with a view of having the merits of the case fairly tried.

The JUDGE ADVOCATE said that the witness might be asked if he did it himself, or if he did by the prisoner's authority.

Q. State whether you surrendered the accused into the custody of an officer by the authority of the accused himself.

A. I did, sir, most certainly.

On Saturday evening, at 7 o'clock, I met Mr. O'Laughlin and Mr. Early together, just as they returned from Washington. On Sunday morning Mr. Wallace and other officers came to our house in search of O'Laughlin. I believe officers had been there on Saturday, though I had not seen them. On Monday I was sent for by Michael. I went for a hack, and called for Mr. Wallace, who was not then aware of O'Laughlin's whereabouts. I went into the house, Mr. Wallace remaining in the hack, and Michael came out, and I introduced him to Mr. Wallace and Mr. James S. Allison. There was nothing, I believe, said from that time till we reached the Marshal's office.

Q. I ask you to state, further, whether he offered to inform you where he could be found that night, if wanted.

Assistant Judge Advocate BINGHAM objected to the question, and the Commission sustained the objection.

Q. Did you know Booth intimately?

A. Yes, sir.

Q. State whether he was a man of pleasing address.

Assistant Judge Advocate BINGHAM. I object to all that.

Mr. COX. What I desire to show to the Court, and what all the counsel desire, is to have some evidence as to the character of this man, John Wilkes Booth. There is nothing in the case yet to reflect any light at all on that question. If any of these accused should be found guilty of association with him in this serious crime, Booth's influence upon them, whatever it may have been, would not affect the question of their innocence, but it is a consideration, which goes in mitigation of their guilt, that Booth was a man who naturally acquired a great ascendancy over young men with whom he associated, and could warp them from the right by means of his control over them. My desire is to introduce some evidence on that subject, and it is the desire of all the counsel for the defense. The question what I propound to the witness is a preliminary question, designed to introduce that subject.

The JUDGE ADVOCATE. It does not mitigate the assassination at all, that it was performed by a man of fascinating address and pleasing manners.

Mr. COX. No, but it mitigates the act of the other parties that they were acting under his influence.

The JUDGE ADVOCATE. Not at all.

The Commission sustained the objection.