

BEWARE THE PEOPLE WEEPING

THOMAS REED TURNER

THE LINCOLN ASSASSINATION is so surrounded by myth, sensationalism, and falsehood, that beginning to unravel the truth of what really happened is no easy task. Difficulties notwithstanding, what can actually be known about that event and its aftermath?

The most obvious point is that the assassination did not occur in the calm historical vacuum that is portrayed by so many authors, but at the end of an extremely costly and bitter Civil War that was one of the most divisive events in our history. Many contemporaries did not view Lincoln as a godlike figure, as William Hanchett has explained, but as a leader who had to deal with controversial problems in tumultuous times. Lincoln had often been threatened with violence during the course of the war, and while the timing of the attack may have caught people by surprise, the idea that someone might harm the president was certainly not foreign to them.

The week preceding Lincoln's death had been a week of joy and celebration. The end of the war brought great rejoicing accompanied by fireworks, speeches, and parades. Some even began to call for leniency toward the ex-Confederates. Against this background, the assassination seemed all the more traumatic, an evil betrayal.

These feelings rapidly turned into calls for revenge, particularly directed against those thought to be sympathetic to the assassin's act. A most gripping description of the violence that erupted was recorded in an unknown source by Melville Stone, the general manager of the Associated Press: "I made my way around the corner to the Matteson house . . . [,] very soon I heard the crack of a revolver, and a man fell in the centre of the room. His assailant stood perfectly composed with a smoking revolver in his hand, and justified his action by saying: 'He said it served Lincoln right.' There was no arrest, no one would have dared arrest the man. He walked out a hero. I never knew who

he was."¹ Other individuals also recorded carrying pistols to take their revenge against anyone who spoke ill of the dead president. The times are hardly normal when men are shooting each other on the street and escaping punishment, and others are contemplating similar action.

Next revulsion set in against what was mildly criticized as Lincoln's policy of being too lenient toward rebels and traitors. Many of the Radical Republicans greeted the ascendancy of Andrew Johnson to the presidency as the beginning of an era of harshness. Some seemed to be particularly pleased that if Lincoln had to die, at least Johnson was the proper person to succeed him. The Radicals have been blamed for stirring up the public hatred of the South, yet it was natural for Northerners to assume Southern involvement in the president's death. Indeed since Lincoln and Secretary of State William Seward were assaulted almost simultaneously, the attacks appeared to be a well-organized conspiracy, the last dying gasp of the Confederacy. Secretary of the Navy Gideon Welles, not prone to such utterances, blurted out: "Damn the rebels, this is their work."²

Several government officials were so convinced that the Confederates were about to capture Washington, that they abandoned their first impulse to rush to the bedside of the dying president and, instead, were paralyzed to inaction by their fear. Chief Justice Salmon Chase, recalling the tramping outside his window of the guards who were sent to protect him, wrote, "It was a night of horrors."³

Though the public was convinced that the South was involved, the proclamation issued by President Johnson accusing Jefferson Davis and several other Confederates of being behind the murder caused a profound sensation. There was very little caution expressed in accepting such charges. Newspapers that had been hinting that Davis and Confederates in Canada had engineered Lincoln's death now gloated that they had been correct.

While it has long been certain that the Confederate government had nothing to do with the assassination, Southern reaction to the murder was mixed. It is true that there were some genuine expressions of sorrow, typified by the comment of the *Richmond Whig* on April 17: "The heaviest blow which has ever fallen upon the people of the South has descended."⁴ There were also many mass meetings held, as well as statements of sympathy from ex-Confederate leaders and even by those who privately recorded their feelings in their diaries.

"Beware the People Weeping"

However, there were many Southerners who actually rejoiced at Lincoln's death, the same way Northerners might have had it been Davis. The *Texas Republican* of April 28 said that men would thrill to Lincoln's killing "from now until God's judgment day," while the *Galveston Daily News* spoke of martyrdom for Booth. Even many years later there were those who believed Booth to be a Southern hero.⁵

The reaction of Jefferson Davis himself fell something short of deep sympathy. To his Secretary of the Navy Stephen Mallory he managed the rather lame assessment that, "I certainly have no special regard for Mr. Lincoln; but there are a great many men of whose end I would much rather have heard than his." In his memoirs he added that while he could not mourn for Lincoln, his death was "a great misfortune to the South." This comment is revealing in that mourning for Lincoln in the South often centered around anxiety over Johnson's Reconstruction policy rather than genuine grief about the dead president. It took some time for Lincoln to be converted to a national and Southern figure.⁶

Secretary of War Stanton can hardly be accused of artificially manufacturing anti-Southern feelings, and one of the most unfortunate legacies of the assassination has been the innuendo that has so tarnished Stanton's reputation. The truth is that he, along with Lincoln's friend Marshal Ward Hill Lamon, was one of the few presidential advisors who constantly worried about safety and warned Lincoln to be cautious. However, like most presidents, Lincoln was a fatalist who thought he could not spend his life worrying about his personal safety. On the occasion of his second inauguration, when Stanton had tried to strengthen his guard, Lincoln had told the war secretary, "If it is the will of Providence that I should die by the hand of an assassin, it must be so."⁷

With the war ended, most of Lincoln's friends, including Lamon, breathed a sigh of relief that the danger had passed. While Stanton shared these feelings, to a degree, it should not be forgotten that on the day of the assassination, it was Stanton who was still concerned enough for the president's safety that he was urging him not to go to the theater that evening.

Stanton was also one of the few cabinet members intimate enough with the president that they exchanged folksy letters concerning everything from the weather to great affairs of state. And it was Stanton

who had a cottage next to Lincoln's on the grounds of the Soldier's Home, where the two men played with each other's children and enjoyed each other's company.

This real Stanton, not the caricature created by his enemies, conducted the pursuit and capture of the assassins and, judged by his contemporaries, he did a more than adequate job. With many other government officials immobilized by fear, people in 1865 marveled at his ability to take charge in an extreme moment of crisis. Several eyewitnesses at the Petersen House, including Assistant Secretary of War Charles A. Dana, wrote glowing tributes to his efficiency. They did not see the out-of-control dictator later portrayed by various writers, but a man who functioned well under very trying circumstances.

While Stanton has been accused of being slow in the pursuit of the assassins, that charge does not stand up to careful investigation either. With all that Stanton had to do that fateful night, the four and a half hours it took to identify Booth positively as the assassin does not appear to be an inordinately long amount of time. Claims that Stanton was slow in releasing Booth's name to the newspapers, as if he were engaging in some sort of cover-up, are nonsense. His task was to notify the detectives and military commanders who would pursue the assassins, and he did this rapidly and effectively. In fact, his hesitancy to publish far and wide Booth's name as the assassin may indicate that he was trying to avoid whipping up the public frenzy that his critics have accused him of doing anyway.

Given the trauma of the assassination, the pursuit of the assassins could not have been as easy as later writers have wished. There were reports from many geographic areas that Booth had been seen, often disguised as a woman. Sometimes unfortunate Booth look-alikes were apprehended and then released with the admonition that anyone looking as much like Booth as they did would be wise to stay off the streets at present. Some of these individuals narrowly avoided bodily harm, although one newspaper humorously tallied up the numbers of those caught in the dragnet.

One popular theory was that Booth had never even left Washington. A letter claiming that Booth had been seen in women's clothes on E street between Eleventh and Twelfth streets brought the seizure of the entire block and a house-to-house search. Even the Washington postmaster, S. J. Bowen, communicated to Stanton his belief, and that

"Beware the People Weeping"

of his friends, that Booth was still in the city and that every house should be searched.

While some of the evidence that reached the government appeared to be false or the work of cranks, a great deal of time and energy had to be expended in checking it out. No matter how suspicious the lead, it would have been extremely embarrassing not to have pursued the information and to have discovered that Booth was thereby allowed to escape.

Even Booth's audacity in giving his name as he crossed the Navy Yard Bridge, leading out of Washington, caused confusion. Whether Booth did this on purpose or accidentally, it caused many people to believe that Booth had accomplices who were trying to mislead the authorities as to his true direction of flight. Few seemed inclined to believe that a shrewd assassin would have been foolish enough to give his real name.

Many contemporaries would not have been very much surprised had the assassins escaped altogether, given a wooded and swampy area and a sympathetic populace. One need only be reminded that in 1963 Lee Harvey Oswald was not apprehended at the site of the shooting of John F. Kennedy, or that in 1968 James Earl Ray, who was convicted of killing Dr. Martin Luther King, Jr., eluded his pursuers for many weeks.

Despite all of the confusion involved, the authorities did manage to strike Booth's trail and, on April 26, 1865, he was shot and killed in the tobacco shed of farmer Richard Garrett near Port Royal, Virginia. Booth's death, however, raised many other questions, including how the authorities managed to pinpoint his exact location. While Lafayette Baker claimed that an elderly black informant had provided the break in the case, S. H. Beckwith, telegraph operator for General Grant, had been dispatched to the area to aid Major James O'Beirne, whose forces were tracking the assassin. It was apparently the information relayed by Beckwith that led Baker's detectives, along with a troop of cavalry, to Booth's hiding place. The importance of Beckwith's role is revealed by the fact that he was granted a \$500 share of the reward money.

In fact, had the Baker forces not discovered Booth, another party under H. W. Smith, assistant adjutant general, was also close on the trail and would likely have made the capture. Col. H. S. Olcott confirmed that Smith had narrowly missed the capture when he wrote

to Judge Advocate Joseph Holt: "A party of twenty-five cavalry that we sent under Smith on a tug reached the scene of Booth's death, eleven hours after that occurrence, and would have been there eight hours before it if the steampower of the vessel had not been inadequate. And yet we see Baker made a general and receiving all credit, while the rest of us are not even mentioned in anyway."⁸

The huge rewards offered led to a rather unseemingly scramble among the detectives for their share, but the public in 1865 had great faith that this was the proper means to apprehending the assassin. This public thought it not so unusual that Booth had escaped, and it believed that rewards totaling as much as \$100,000 would ultimately cause someone to betray him.

One of the unfortunate aspects of the killing of Booth was the secrecy with which the body was handled. This secrecy fueled rumors that either the government had something to hide, or the corpse was not Booth. The authorities had inadvertently fostered this speculation by allowing a picture to be printed, which appeared in *Frank Leslie's Illustrated Newspaper*, showing Baker's detectives placing the body in a rowboat on the Potomac River and rowing away in the gathering twilight. This led to the belief that the body had been disposed of in the river, when in reality the detectives had secretly rowed back to the Old Penitentiary on the Washington Arsenal grounds and buried the body in an ammunition box. The government's purpose was to prevent Booth's grave from becoming a shrine for those who sympathized with his deed.

With Booth dead, the government arrested eight of his associates, including David Herold, who had been found with him in Garrett's barn. One of the key problems now became the mode of trial for these suspected assassins. President Johnson consulted Attorney General James Speed and received the opinion that the suspects could be tried by a military commission. On May 6, 1865, he appointed such a body.

Few Americans of any era have been very comfortable with military courts for civilians and, in retrospect, Johnson's was an unwise decision. Yet no author has attempted to investigate why, in 1865, the government felt compelled to abandon the time-honored tradition of using civil courts to try civilians.

During the Civil War Lincoln had suspended the writ of habeas

corpus; therefore, holding civilians without trial and trying them by military court were not unusual procedures. While historian David Dewitt argued that the trial of Mary Surratt was unprecedented, another woman, Mrs. Bessie Perrine, was actually undergoing a military trial at the same time as Mary Surratt on charges of having aided rebel raiders in July 1864. She was convicted, although President Johnson set aside the execution of her sentence, contingent upon her future good behavior.

To say that military trials were not uncommon is not to indicate lack of opposition to them. Many sensed instinctively that the guilt or innocence of those involved would become confused, and that those convicted by such a court might be made martyrs. Former Congressman Henry Winter Davis sounded like a prophet when he warned Johnson "that the trial of the persons charged with the conspiracy . . . by Military Commission will prove disastrous to yourself your administration and your supporters who may attempt to apologize for it."⁹ Perhaps Booth might have lost some of his villainy had he lived to stand trial before a military court.

Another facet of the trial that caused problems was the proposed secrecy. Those who favored a military trial usually did not wish to keep the proceedings secret. Stanton has been criticized for the policy of secrecy, but the evidence seems to indicate that Judge Advocate Holt was responsible for it. Eventually a huge outcry forced the proceedings into the open.

Many people favored a military trial in 1865 not to dispense harsh and vindictive justice but because, with its wider rules of evidence, such a trial was supposed to get more easily to the bottom of the vast conspiracy which the public perceived. As the *Boston Evening Transcript* explained, "A court confined within strictly legal bounds, and never travelling out of the narrow limits of merely technical investigation, could not have developed the full extent of the hideous plot."¹⁰ The court was to serve as a sort of Warren Commission that could investigate all areas and clear up all questions.

The court members have been stereotyped as a vindictive group of army officers who were lusting for blood to avenge Lincoln's death. The actions of two tribunal members, in particular, have fostered this stereotype. Gen. Thomas M. Harris and David Hunter attacked Mary Surratt's lawyer, Reverdy Johnson, as a Southerner unfit to serve as

counsel. Later Harris also wrote two books in which he defended testimony that had turned out to be perjured. He also charged that the Catholic church might have been behind Lincoln's death.

However, the actions of the majority of the members do not support the stereotype of vindictive judge. One of the judges, Gen. August V. Kautz, for example, noted that Reverdy Johnson "did the other members great injustice, if he supposed they united with General Harris in his ill advised objection to Lawyer Johnson."¹¹ Indeed, the court was hardly the bloodthirsty tribunal that has been portrayed.

Nor were the prisoners treated as harshly through the course of the trial as many writers have claimed. While they were initially hooded and kept in chains, both Kautz and Gen. Cyrus Comstock argued against such treatment and the practice was discontinued. A physician visited the prisoners and made recommendations for their comfort. One historian has argued persuasively that by the tenth of June the government had determined that the plot was not as widespread as it had believed and thereafter the prisoners were treated in a more normal manner.

The government also attempted to procure counsel for the accused, an action that has usually not been acknowledged. Letters and telegrams were sent to lawyers requested by the defendants, but obtaining counsel was not a very easy task. In a case so notorious, many lawyers seemed to think that their patriotism would be questioned if they defended those accused of killing Lincoln. Even Joseph Bradley, who successfully defended John Surratt two years later, pleaded pressing professional engagements—in his case a sensational but rather ordinary murder trial.

Several of the lawyers who did take the cases appeared merely to be going through the motions. Observers sensed that the attorneys seemed to be as convinced of the guilt of their clients as the prosecution was. Even Reverdy Johnson, who was praised for his handling of the defense of Mary Surratt, actually did little in a concrete way for that unfortunate woman. He prepared a brief against the jurisdiction of military courts over civilians but left her defense to others. Similarly, Frederick Stone, who was out of the city, did not read his client David Herold's defense but left that job to court reporter James Murphy.

One other myth that should be dispelled is that the accused were tried by a military court so that they might be prevented from testifying in their own behalf. While it is true that they did not testify,

"Beware the People Weeping"

in 1865 the only state that would have allowed testimony in a civil trial for murder was Maine. Thus, it was the status of the law that restricted the testimony, not some conspiracy of silence.

Of those tried, the cases of Mary Surratt and Dr. Samuel Mudd have been the most controversial. Surratt was the first woman hanged by the federal government. John Lloyd, a tenant at her tavern in Surrattsville, Maryland, testified that five or six weeks before the assassination, John Surratt, David Herold, and George Atzerodt had brought weapons, ammunition, a rope, and a monkey wrench to the tavern, and that he, Lloyd, had hidden these items for them. He also alleged that on two occasions, including the afternoon of the assassination, Mary Surratt had told him to have the "shooting irons" ready as they would be wanted soon. Booth and Herold stopped during their flight on the evening of April 14 at Lloyd's to secure one of the weapons and a field glass along with some whiskey before they resumed their flight.

Equally damaging to Mary Surratt was the testimony of her son's friend Louis Weichmann, who boarded with the Surratts in Washington. He testified that on April 14, before Mary Surratt had left for Surrattsville, she had been engaged in a lengthy conversation with Booth. He also told the court that Confederate agents and blockade runners Mrs. Sarah Slater and Spencer Howell had visited the Surratt home, as did a mysterious Baptist preacher, "Mr. Wood" (Lewis Paine), who turned out to be Secretary Seward's assailant. In an affidavit dated August 11, 1865, he added details about Mary Surratt weeping at the fall of Richmond, and implied that she hastened back to Washington from Maryland on April 14 for a meeting with a caller whom Weichmann had not seen, but whom he presumed to be Booth.

In addition, just as the authorities were arresting Mary Surratt and some members of her household, Seward's assailant, Paine, arrived at her door dressed as a laborer. While her defenders claim she had poor eyesight and would not have recognized Paine in this partial disguise, her denial that she had ever seen him, coupled with Weichmann's testimony that he had visited her home, obviously made an unfavorable impression on the court.

It is true that much of the evidence against Mary Surratt might have been viewed as circumstantial had the case been tried in calmer times, but in the heated aftermath of the assassination, a very different picture emerged. Surratt appeared to be an intimate of Booth and a

Confederate supporter, as was her son, who was a Confederate courier and blockade runner. The plot against Lincoln had been hatched in her home. And she seemed to be the stereotypical Southern woman, very capable of plotting the death of the hated Lincoln.

A great deal of blame has been heaped on Louis Weichmann for the death of Mary Surratt. He has been portrayed as a son who, out of fear for his own life, made falsely incriminating statements which sent his adopted mother to the gallows. There is some truth to the portrayal of Weichmann as a coward, for he had written to Judge Advocate H. L. Burnett on May 5 that "you confused and terrified me so much yesterday, that I was almost unable to say anything."¹² At the trial's conclusion, a friend of the Surratt family, John Brophy, said that Weichmann had told him that Stanton and Burnett had threatened him with death if he did not tell all he knew and also that Mary Surratt did not like her son's trips to Richmond or the company that he kept. According to Brophy, Weichmann had agreed to write a letter to President Johnson avowing her innocence if Brophy would carry it to the president.

However terrorized Weichmann may have been in private, on the witness stand he made a very favorable impression. Commission member Gen. Lew Wallace noted how firmly Weichmann stood up under cross-examination. His impression was echoed by several newspaper reporters and even Dr. Samuel Mudd, who indicated that Weichmann seemed inclined to tell what he believed was the truth.

There is also some legitimate suspicion that Weichmann was originally involved in the plot to kidnap Lincoln or was, at least, privy to its details. John Surratt, although he can hardly be considered to have been unbiased, made such charges, leading some authors to argue that the transformation of Weichmann from suspect to star witness was another part of the conspiracy and cover-up.

This view is again erroneous, for such a reversal does not necessarily carry with it sinister implications. Encouraging a witness to implicate his fellow conspirators, for promises of immunity, is a procedure often used in American courts, even if it is a sometimes controversial practice. But as the *San Francisco Alta Californian* said so perceptively in 1865, "If such testimony were not accepted, the punishment of great crimes would be rarer than it is."¹³

The effort to defend Mary Surratt's innocence has been made almost entirely by later writers. Most people in 1865 seemed to believe

she was guilty and there is some evidence that they were as much convinced of that guilt by Lloyd's reference to "shooting irons" or Paine's arrival at her home as by the investigators' focus on Weichmann. Weichmann's role in her conviction has been blown far out of proportion.

The other major feature of Mary Surratt's trial was the clemency plea signed by a majority of the court, urging the president to commute her death sentence to life imprisonment because of her age and sex. It is ironic that this allegedly bloodthirsty court should make such a recommendation. If they were really as bloodthirsty as they have been portrayed, they could just as easily have condemned to death all those involved. That they did not do so shows that in arriving at their verdict they weighed the evidence as fairly as they could under the circumstances.

Their request for clemency for Mary Surratt has often been obscured by the president's failure to act on the plea. Andrew Johnson and Joseph Holt waged a bitter battle over whether Holt had even shown the president the clemency plea when he brought the death sentences to be signed. Holt attempted to solicit letters showing that the matter had been discussed by the entire cabinet but he waited until Stanton and Seward were both dead and could not corroborate his story. Other cabinet members who were alive were either hesitant or, in some cases, contradicted Holt, and Johnson staunchly maintained that no plea for clemency had been presented to him.

The entire affair boils down to the truthfulness of the two men, Holt and Johnson, and in this case, the evidence on the whole seems to support Johnson. However, there is additional evidence that Johnson may have seen the plea just shortly after the executions, not many weeks or months later, as he was reminded by one James May in a letter dated September 6, 1873.¹⁴ Johnson was also capable of shading the truth if it suited his political purposes.

In some respects this is also an issue that has been discussed out of context. With the mood of both Johnson and the country in the spring of 1865, the clemency plea might not have had much effect anyway. The president refused to see several relatives of the accused when they came seeking clemency, including Mary Surratt's daughter, Anna. Johnson indicated that Holt had urged upon him that the sex of one of the conspirators should have no bearing on the case and that he had agreed with the judge advocate. Since he obviously con-

sidered some of the issues raised in the petition, and rejected them, there is no real indication that he would have changed his mind, although it would have provided him a means to spare her life had he chosen to use it. As late as 1873, however, while campaigning, Johnson still maintained that she had been tried by a legal tribunal and he had seen no reason not to carry out the sentence.

Dr. Mudd is the other alleged conspirator whose case has elicited some sympathy, although not quite to the extent of that for Mary Surratt, since he was not executed. It has been argued that if Booth had not broken his ankle the name of Mudd would never have been heard in conjunction with the case and there is some justification for this view. What caused Dr. Mudd the biggest problem were statements by Louis Weichmann that in January 1865 he had been present at a meeting in the National Hotel where Booth and Mudd had private discussions and drew lines on an envelope. Mudd, himself, admitted that in November 1864 Booth had spent the night at his home when he was in the area buying horses. There was also testimony that seemed to portray Mudd as a Southern sympathizer and raise some question as to how quickly he had alerted the authorities about the two men who had come to his home on April 15. Mudd and his wife claimed that Booth had been disguised with false whiskers, which was why they had not recognized him.

Mudd was saved from the gallows by the lack of reliability of several of the witnesses against him. However, his Southern sympathies, his previous connection with Booth, and his setting of the assassin's leg made formidable evidence against him. It seemed hard to believe that Mudd would not have recognized Booth, and if Booth did wear false whiskers at the Mudds, it was the only place he did so. Why he would have disguised himself to those he knew and not to others is not easy to explain. Even some later writers, most of whom have not believed that Mudd was involved in the murder, have speculated that Booth's horse-buying trips may have been connected with his kidnapping schemes and that Mudd may have been involved in some manner.

The other alleged conspirators have received far less attention than either Mary Surratt or Dr. Mudd and that is probably because their sentences more clearly coincided with a rough form of justice. Lewis Paine, who had attacked Secretary Seward and also wounded several other people, was clearly identified by witnesses as the assailant

"Beware the People Weeping"

and seemed to be ready to die for his participation. His lawyer, William E. Doster, who later argued that before a civil court Paine would have been acquitted by reason of insanity, actually did his client more harm than good. When he failed to convince the court that Paine had the physical characteristics of insanity, Doster argued a sort of environmental insanity: he claimed that Paine's Southern background made him believe there was nothing wrong with killing his enemy. This impressed the court unfavorably and, as General Kautz wrote, "It was a rather remarkable defense. The deeds charged were not denied."¹⁵

Similarly David Herold, who was found with Booth, and George Atzerodt, who had been designated to kill Vice President Johnson were doomed. Attempts to portray Herold as an inexperienced youth had no more effect than the insanity plea did for Paine. Having aided Booth's flight and having surrendered in Garrett's barn, there was little defense that could be made. Atzerodt admitted that he had been approached to kill Johnson but had not done so. This might have won him some leniency in calmer times but not in 1865.

As for the other alleged conspirators, Edward Spangler ran afoul of the perception that Booth must have had help in the theater although the fact that he was sentenced to only six years shows that the government's case against him was the weakest. Michael O'Laughlin and Samuel Arnold were previously involved in Booth's plot to kidnap Lincoln, but the evidence of their role in the murder was hardly conclusive and they were sentenced to life imprisonment. While this sentence has sometimes appeared harsh, contemporaries seemed to view their cases under the modern legal term of joint venture. That is, if several people conspired to kidnap and some of the group killed the intended victim, then all of those involved should be punished for the crime of murder.

As in the cases of Mary Surratt and Dr. Mudd, the trials of the conspirators ended much as they probably would have in a civil trial. There was much more discrimination on the part of the military tribunal than might reasonably have been expected. If the clemency plea had been honored, only three people would have died and they were all involved with Booth. A civil jury, composed of some of the same citizens who were carrying pistols to avenge the dead president could hardly be expected to reach a much different conclusion.

There is one other aspect of the trial that has often been over

looked by those who have focused only on the individual conspirators. There were really two trials occurring simultaneously, since the government went to great lengths to prove its charges of Southern conspiracy.

A great deal of this testimony involved areas considered to be sensational in 1865. Evidence was introduced that Jefferson Davis had prior knowledge of the plot and that he spoke favorably of Lincoln's death. There was also much testimony about general rebel atrocities such as the burning of towns and steamboats. In addition, several Union prisoners testified about the wretched treatment they had received, the overall purpose of such testimony being to show that those who were capable of such brutal behavior were certainly capable of murdering the president.

Particularly fascinating to the public was the introduction of cipher letters, with their hidden meanings, and charges that the Confederates had attempted to spread yellow fever throughout the North by infecting water supplies. This raised the same apprehensions that discussion of chemical and biological warfare do today. As the *New York Tribune* said, "This evidence seemed to send a thrill of horror through all."¹⁶

There were also several witnesses who testified that Booth had dealings with Confederates in Canada who had provided encouragement and money for the assassination project. The star witness was Sandford Conover, whose real name was Charles Dunham. Conover testified that he had seen Booth and John Surratt in conversation with Confederate commissioners Jacob Thompson and George Sanders. Dispatches were allegedly brought from Richmond indicating that Booth had been chosen to kill Lincoln.

Even before Conover had concluded his testimony rumors arose that there were discrepancies. Weeks later, he then had to be returned to the stand to try to deal with these charges. Conover explained that he had returned to Canada, and under threat of death by the Confederates, he had been forced to retract several of his prior statements. He still maintained that everything he had testified to had been true.

In 1866, during an investigation by the House Judiciary Committee of the charges against Jefferson Davis, it was revealed that Conover's testimony was completely false and that other witnesses who had testified along similar lines had actually been coached by

Conover as to what they should say. These revelations make it appear that Judge Advocate Holt was, at best, once more sadly misled or, at worst, consciously involved in using perjured testimony to try to bring Davis to trial and conviction. Holt once more became involved in a series of efforts to clear his name.

Many authors have not really understood the impact of the Conover testimony. They have focused exclusively on the perjured testimony without realizing how people could be so easily deceived by it. Furthermore, it seemed perfectly plausible to people in 1865 that those who had committed treason against their country, as well as atrocities against prisoners of war, were capable of plotting assassination. When academic historians can be taken in, as some were for a time in the case of the recent Hitler diaries which turned out to be forgeries, perhaps we expect too much of our public officials. Even years later many people believed that if the Conover stories were lies, there was still enough other evidence to make the charges stick.¹⁷

The final act in the Lincoln assassination drama came with the trial of John Surratt by a civil jury in 1867. It has been argued that the jury's inability to agree about Surratt's guilt, and his going free, proves just how biased the earlier military commission had been. Since the evidence against John Surratt was virtually the same as that against his mother, the son's case has also been used to prove that the mother was the victim of judicial murder.

John Surratt might very well have received harsh punishment had he been apprehended in 1865. However, he escaped, making his way to Canada, England, and the Papal States, where he enlisted as a papal Zouave. He was recognized by a former acquaintance and fellow Zouave, Henry Ste. Marie, who reported his presence to the American minister, Rufus King. As Surratt was about to be arrested at Veroli, Italy, he leaped over a precipice and temporarily escaped. He was finally arrested at Alexandria, Egypt, and sent back to the United States aboard the ship *Swatara*.

The arrest of John Surratt brought some interesting rumors, not the least of which was that Johnson feared his return and trial because he might reveal the president's own involvement in the murder. As evidence was being gathered to impeach Johnson, the Radical Republicans, as well as some of the press, hinted that Johnson had been behind Lincoln's death. Actually Johnson did have some worries along

these lines, not because the charges were true, but because he feared the Radicals might offer John Surratt a pardon, and in a desperate attempt to save his own life, he might confess to anything they wanted.

To equate the 1865 and 1867 trials, however, is untenable, since the 1867 trial was held in a much calmer atmosphere. The anger and confusion that had surrounded Lincoln's death in 1865 had naturally abated. The evidence was viewed much more dispassionately and some of the testimony about Southern complicity that had been allowed before the military tribunal was now ruled illegal.

Even in 1867, though, the prosecution's case at first seemed formidable. Sgt. Joseph Dye, who had testified in 1865 that he had seen two men outside the theater with Booth engaged in calling out the time and other suspicious activities, now identified one of these men as Surratt. He added that Surratt's thin, pale face had so impressed him that he afterward often saw it in his dreams. He further claimed that as he and his friend, Sgt. Cooper, were returning to camp, a woman whom he believed was Mary Surratt had raised her window and inquired what was going on downtown.

Other testimony seemed to be equally damaging. Numerous witnesses testified that they had seen John Surratt in Washington on April 14, and Ste. Marie claimed Surratt had confessed to him that he had escaped from Washington on the evening of the murder. Weichmann and Lloyd also repeated their testimony given in 1865, although Weichmann added a few new details, such as Anna Surratt's alleged statement on the morning of April 15 that the death of Lincoln was no more than the death of any Negro in the army. Dr. Lewis McMillan, surgeon of the steamship *Peruvian*, on which Surratt had fled to England, also was brought to the stand and testified that Surratt had admitted murdering some escaped Union prisoners in cold blood and that he said he hoped to live to serve Johnson as Lincoln had been served. All of this seemed terribly incriminating and as the *New York Weekly World* said on July 10, "If the testimony which has thus far been given is not shaken by counter-evidence, and is believed by the jury, it will go hard with the prisoner."¹⁸

The point is that in 1867 just such counterevidence was presented, which did a great deal to weaken the prosecution's case. Dye's testimony was shaken when stage carpenter James Gifford, actor C. B. Hess, and costumer Louis Carland revealed that they were the group of three men who were in front of the theater. Mrs. Frederika Lambert

"Beware the People Weeping"

also testified that she had had an encounter with two soldiers on April 14 similar to the one described by Dye and Cooper. Attempts were made to impeach Weichmann and Lloyd by showing that Weichmann had been intimidated into making the statements he did while Lloyd admitted to being drunk during his encounters with Mary Surratt. There were hints that both these men might themselves have been accomplices of Booth.

There was also testimony from Stephen Cameron, chaplain and sometime Confederate secret service agent, that the surgeon McMillan had told him that Surratt had been in Elmira, New York, on the day of the assassination and then had gone to Canandaigua. Indeed, this line of evidence proved to be the most telling for the defense, for as it became fairly certain that Surratt had been in upstate New York as late as April 13, the prosecution had to alter its tactics. Witnesses were produced to show that it would have been possible to come by train to reach Washington on April 14. However, when that too appeared doubtful, since several parts of the railroad line were out of operation, the last resort was to argue the doctrine of constructive presence. This stated that Surratt was in league with the conspirators and that he might have been in Elmira as part of that plan, perhaps to cause confusion by burning the city or releasing Confederate prisoners. Such connection was not legally convincing and so weakened the case that in 1889 Edward Carrington, one of the prosecutors, admitted that there was no really good evidence that Surratt was in Washington on April 14.

This trial, while not as rancorous as the 1865 trial, did produce a degree of bitterness. Defense counsel Joseph Bradley spoke of vindicating Mary Surratt while District Attorney Carrington took strong exception to the charges that she had been murdered. On another occasion defense counsel Richard Merrick questioned the veracity of prosecution witnesses, stating that some were apt to end up in the penitentiary, which led to a clash in court between witness McMillan and Merrick. The old animosities of the war were also raised, for example, when James Ford, the brother of theater owner John Ford, was questioned as to which side he had supported in the war. At the end of the trial, tempers ran so high that senior defense counsel Bradley and presiding judge George Fisher almost came to blows, and challenges to a duel were issued when Fisher disbarred Bradley.

While the acrimony did provide a certain amount of excitement,

the evidence had become so bewildering that it was very difficult to reach a clear decision. The *Baltimore Sun* very prudently cautioned, "The jury will certainly have to exercise a wise judgment in reconciling the great conflict in evidence."¹⁹ Despite some partisan comments at the outcome most people could comprehend why the jury could not agree.

It is wrongheaded to argue that the one overriding factor in the failure to convict John Surratt was his trial before a civil instead of a military court. The jury did not convict John Surratt because the evidence was inconclusive and there seemed to be relatively little desire to retry him. The public appeared content to leave to historians the task of unraveling whatever mysteries still remained.

Unfortunately, historians for over a hundred years have generally been willing to abandon the field to sensationalists and popularizers. Perhaps we are now entering a phase where scholars will give the death of Lincoln the attention it deserves. It is worth noting that one of the preeminent Lincoln scholars of our generation, Richard Current, suggests in his latest book that future Lincoln scholarship is not apt to proceed from the startling discovery of any new large body of Lincoln letters. Rather, advances will come from a careful restudy of materials that have been heedlessly used in the past and the application of the historian's imagination to see new patterns of meaning in already familiar evidence.²⁰

The Lincoln assassination well illustrates his point. Too many sensational new revelations have turned out to be frauds for us to believe that many new valid materials will be discovered in the future. But there have been numerous underutilized or misunderstood sources. One example of this is the hundreds of sermons delivered on Lincoln's death. If authors had really read and understood these sermons, with Northern ministers preaching hatred for the South and castigating the Confederates as being behind the murder, they would have had a much better understanding of the forces unleashed by the assassination. Secretary of War Stanton's views may have coincided with those of the ministers, but he was presiding over events that were far beyond his power to control even had he wished to do so.

Another fruitful area of pursuit in the future may be a study of the assassination in the broader context of other American assassinations. The belief that Booth escaped death in Garrett's barn or that a double died in place of Lee Harvey Oswald appear to be too similar

to be mere coincidence. Historian Lloyd Lewis suggested many years ago in *Myths after Lincoln* that in death Lincoln became the traditional folk god who was betrayed. In that folk myth tradition the Judas who betrays the folk hero is not allowed to rest but must wander the world alone and friendless until some retribution is made for the crime. Booth and Oswald, having assumed the role of Judas, cannot be seen as dying a simple death, even though the evidence is overwhelming that both died in the manner traditionally portrayed. There appear to be additional similarities surrounding American assassinations that might further illuminate the death of Lincoln.

There are so many layers of myth to be stripped away from Lincoln's assassination and its aftermath that the task is not easy, but progress has been made and can be made in the future. It is high time for academic historians to recapture the ground they have lost, for if the historiography of the Lincoln assassination teaches us anything, it is that we abandon any area of research to the sensationalists and popularizers only at great peril to the truth.

NOTES

1. *Lincoln Lore*, no. 1478 (Apr. 1961); Unidentified newspaper clipping, in Truman H. Bartlett Collection, Boston University.
2. Mrs. M. J. Welles (Typescript), Apr. 14, 1865, in Gideon Welles Papers, Library of Congress.
3. David Donald, ed., *The Civil War Diaries of Salmon P. Chase* (New York: Longman's, Green, 1954), p. 267.
4. *Richmond Whig*, quoted in *New Orleans Times-Picayune*, May 12, 1865, p. 4.
5. Robert S. Harper, *Lincoln and the Press* (New York: McGraw Hill, 1951), p. 360.
6. Stephen Russell Mallory, "Last Days of the Confederate Government," *McClure's Magazine* 16 (1901): 244; Jefferson Davis, *The Rise and Fall of the Confederate Government*, 2 vols. (New York: D. Appleton, 1912), 2: 683.
7. John A. Bingham, "Recollections of Lincoln and Stanton, by Honorable John A. Bingham of Ohio, the Judge Advocate That Tried the Assassins" (Typescript of the originals, compiled by J. L. Conwell and in the possession of Milton Ronsheim), in John A. Bingham Papers, Ohio Historical Society, microcopy, roll 1.
8. H. S. Olcott to Joseph Holt, Sept. 15, 1865, in Joseph Holt Papers, Library of Congress.
9. Henry W. Davis to Andrew Johnson, May 13, 1865, in Andrew Johnson Papers, Library of Congress, microcopy, roll 15; Mark E. Neely,