

Hatching Execution: Andrew Johnson and the Hanging of Mary Surratt

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Abstract

In 1865, the American Civil War and the assassination of US President Abraham Lincoln plunged the country into a state of panic. Federal officials quickly took to the ranks, imprisoning hundreds of suspected rebels believed to be involved in the assassination. Ultimately, only eight individuals, dubbed conspirators, were prosecuted and charged with murdering the Commander-in-Chief. During their trials, new president Andrew Johnson voiced grave concern over one particular conspirator, middle-aged Catholic widow Mary Surratt. As the mother of escaped conspirator, John Surratt, Johnson viewed Mrs. Surratt as an individual that needed to be treated with a particular urgency, resulting in a series of events that led to Mrs. Surratt's execution, less than three months after the assassination, on July 7, 1865. This paper analyzes the actions of Johnson and considers the American public's responses to Mary Surratt's hanging. Additionally, this paper looks at the later writings of Andrew Johnson in order to gain an understanding of his feelings on Mrs. Surratt in the weeks, months, and years after her execution, as well as the implications her hanging had on the remainder of his political career.

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Introduction

The rebellion they had too easily believed to be dead could still strike, it seemed, a fatal blow against the very life of the Republic... He [Johnson] is a leader only in the sense that he has caught the same madness of terror and suspicion which has seized the people.

-David DeWitt, *The Judicial Murder of Mary Surratt*

Dating back as far as the 17th century and into the American Civil War, public hangings served as a form of punishment and entertainment for the American people. Executions were often attended by families and featured refreshments such as cake and lemonade for spectators who turned out to witness the implementation of justice against convicted criminals.¹ Despite centuries of popularity, the public hanging of one convicted conspirator in the Lincoln assassination, Mary Surratt, called the entire balance of the United States Constitution, presidential power, and justice into question, waiting on the life and death decision of the nation's brand new Commander-in-Chief, Andrew Johnson. Johnson's executive decisions in the weeks and months after the Lincoln assassination included ordering a military commission to try not only Mary Surratt, but a host of other conspirators: Lewis Powell, David Herold, George Atzerodt, Samuel Mudd, Michael O'Laughlin, and Samuel Arnold who were accused of being involved in the Lincoln assassination. Additionally, Johnson, despite administering an Amnesty Proclamation which promised full pardons to Confederates if they reaffirmed their loyalty to the US, continued to push for Mrs. Surratt's death, ordering her execution on July 7, 1865. Johnson demonstrated no signs of guilt or regret over her death for the remainder of his presidency and the rest of his political career, remaining adamant in his decision to hang Mrs. Surratt until his own death in 1875.

¹ *The Conspirator Full Length Documentary*, DVD-ROM (New York: American Film Company, 2010), disc 2.

After the four year blood bath that pinned brother against brother, paired with brutal disease epidemics that crippled both Northern and Southern forces, the American Civil War ended in April 1865 with Confederate General Robert E. Lee's surrender to Union General Ulysses S. Grant at Appomattox Court House on April 9. A wave of inconsolable grief washed across the nation over an unparalleled 600,000 deaths. The nation entered a deep period of mourning over lost husbands, wives, sons, daughters, brothers, sisters, fathers, mothers, neighbors, and friends. Five days after Lee's surrender, this grief intensified with what is now known as one of the most infamous murders in American history: John Wilkes Booth's assassination of President Lincoln on April 14, 1865 at Ford's Theatre in Washington DC. That same night, one of Booth's accomplices, George Atzerodt, was supposed to assassinate then Vice-President Andrew Johnson while another conspirator, Lewis Powell (alias Payne) traveled to the home of Secretary of State William Seward, stabbing him within an inch of his life.² Other Union leaders like Lieutenant-General Ulysses S. Grant and Secretary of War Edwin Stanton were also believed to have been targets of the assassins.³ The uncovering of such a large conspiracy against the federal government was unprecedented in American history and shook the American public to their core in the realization that despite the surrender of Confederate troops, the US remained a divided country riddled with uncertainty.

Fearing that this conspiracy was even deeper than they knew, federal figures like Secretary of War Edwin Stanton, Judge Advocate General Joseph Holt, and newly sworn in President Andrew Johnson launched an investigative hunt for the parties responsible for the assassination. "The army was put in motion. Hundreds of details scoured the adjoining territory, and thousands

² *The Conspirator Full Length Documentary*, DVD-ROM (New York: American Film Company, 2010), disc 2.

³ Davit DeWitt, *The Judicial Murder of Mary Surratt* (Baltimore, MD: Baltimore Murphy and Company, 1894), 42.

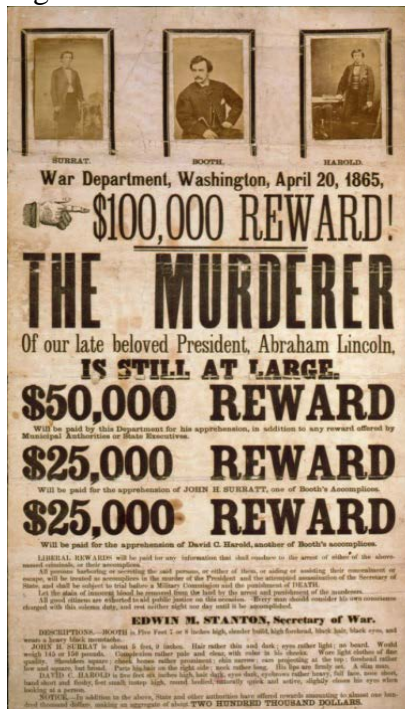
of detectives peered into every nook and corner where a hiding-place might be discovered.”⁴ Furthermore, Stanton vouched for the production of wanted ads which he constructed and distributed on April 20, 1865. These ads displayed photos of Booth, John Surratt, and David Herold, all of whom were, at the time, at large. Booth and Herold had escaped Washington DC and were on the run for twelve days after the assassination, traveling up the Potomac River and hiding in various spots along the way. On April 26, federal officials discovered Booth and Herold at the Garrett Farm in Virginia. Troops set the barn ablaze in an effort to force Booth and Herold out, at which point Booth was shot and killed. Herold was taken into custody, later to be tried and hung for helping Booth escape as well as for his role in the assassination conspiracy. Meanwhile, John Surratt, close friend and confidant of Booth, had fled the country in the weeks before the assassination and remained missing until November 27, 1866 when he was finally apprehended in Alexandria, Egypt.⁵ Stanton’s posters (see Figure 1) of the three most wanted conspirators were reproduced across the US and could be found on nearly every street corner, condemning the conspirators as murderers and promising large sums of money for their apprehension, equivalent to up to \$707,819.38 in today’s terms.⁶

⁴ John W. Clampitt, “The Trial of Mrs. Surratt,” *The North American Review* 131, (September 1880): 224.

⁵ “Timeline: The Assassination of Abraham Lincoln,” PBS, 2013, accessed December 3, 2015, <http://www.pbs.org/wgbh/americanexperience/features/timeline/assassination/>.

⁶ Robert Sahr, “Inflation Calculator,” Oregon State University, 2015, accessed December 3, 2015, <http://www.in2013dollars.com/1865-dollars-in-2015?amount=50000>.

Figure 1. Wanted Poster.

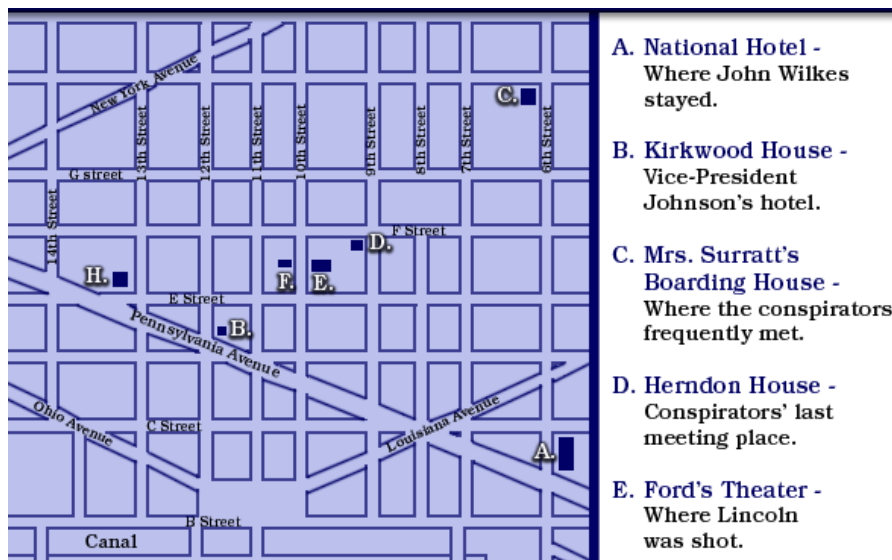


Source: "Wikipedia Commons," Accessed December 2, 2015, https://commons.wikimedia.org/wiki/File:John_Wilkes_Booth_wanted_poster.jpg

Among the suspects that were taken into custody was Mary E. Surratt, a Catholic widow and boardinghouse owner who was the mother of believed conspirator, John Surratt. Mrs. Surratt's boardinghouse, blocks away from Ford's Theatre in Washington DC (see Figure 2) served as a frequent meeting place for Booth and his co-conspirators, allegedly being the location where they planned to kidnap President Lincoln and ransom him for Confederate prisoners of war. This plan fell through and was abandoned until Lee's surrender at Appomattox, upon which the plot escalated from kidnapping to assassination and additionally expanded the target from solely Lincoln to other members of the Union government.⁷

⁷ *The Conspirator Full Length Documentary*, DVD-ROM (New York: American Film Company, 2010), disc 2.

Figure 2. Map of Washington DC area.



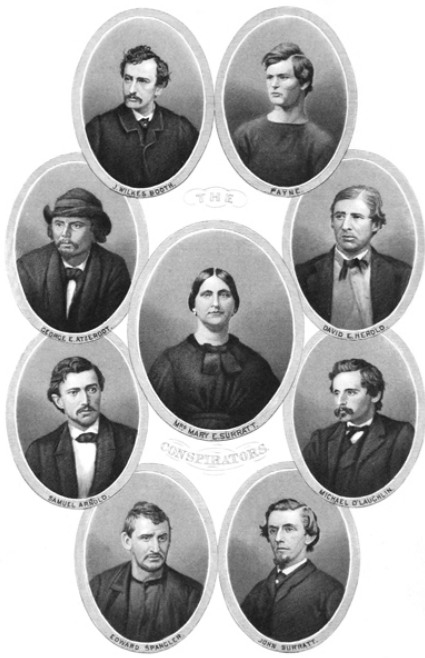
Source: "Mr. Lincoln's White House," accessed November 19, 2015,
http://www.mrlincolnwhitehouse.org/www_redesign/map-assassination.asp.

The Surratt boardinghouse was portrayed by newspapers as a Confederate business that hosted a number of immoral individuals and questionable activities. President Johnson spoke out publicly many times on the significance of the Surratt boardinghouse, deeming it "the nest which hatched the egg of assassination."⁸ Johnson argued that the Surratt boardinghouse provided the atmosphere where such murderous and traitorous conspiracy against the US government was not only possible but supported, condemning Mrs. Surratt as the mother of the conspiracy.⁹ Additionally, during the trial of the conspirators, an image was released of nine major players in the Lincoln assassination, including Booth, arranged in a circular formation (see Figure 3) with Mrs. Surratt placed in the middle of the conspirators. This widely published image reinforced Johnson's portrayal of Mrs. Surratt as the mother of the conspiracy and worked to dissolve any public support or sympathy given to Mrs. Surratt.

⁸ "Mary Surratt at Trial," University of Missouri: Kansas City, accessed December 4, 2015,
<http://law2.umkc.edu/faculty/projects/ftrials/lincolnconspiracy/surrattm.html>.

⁹ Ibid.

Figure 3. Conspirator Portraits.



Source: "Deano in America," Accessed December 2, 2015,
<https://deanoinamerica.wordpress.com/2013/06/12/1865-the-death-of-lincoln/>

Investigators discovered a number of damning, yet circumstantial pieces of evidence which made the case against Mrs. Surratt. First, the prosecution utilized Mrs. Surratt's image as the "nest which hatched the egg," arguing that because Booth and many other conspirators met at the Surratt boardinghouse, she must have not only known about the topics discussed on her property but also approved of them since she continually allowed their presence. Second, Mrs. Surratt made a visit to the Surrattsville Tavern, just outside of Washington DC, on the day of the assassination, allegedly to conduct business and collect money from an old debt. However, John Lloyd, tenant of the Surrattsville Tavern, former police officer, rumored alcoholic and critical witness for the prosecution, claimed that Mrs. Surratt visited the tavern on behalf of John Wilkes Booth himself to drop off a package which contained Booth's field glasses, indicating that Mrs. Surratt served as an agent for Booth and thereby must have known about the imminent assassination. Lloyd testified

further that Mrs. Surratt instructed him to prepare two guns, referred to as “shooting irons” along with two bottles of whiskey because parties would call for them later that night.¹⁰ As Lloyd anticipated, Booth and conspirator David Herold arrived at the Surrattsville Tavern later that night, calling for shooting irons and, of course, whiskey. The final major piece of evidence used against Mary Surratt ensued three nights after the assassination, on April 17. While being interrogated in her home, a knock on the door from conspirator Lewis Powell disrupted authorities. Powell, unfamiliar with the DC area, turned to the Surratt boardinghouse in a moment of panic and confusion after post-assassination plans did not come to fruition.¹¹ Claiming that Mrs. Surratt had called for him to dig a gutter for her in the morning, authorities retrieved Mrs. Surratt and asked if she knew Powell and if she had called for someone to dig a gutter for her. Immediately, Mrs. Surratt raised her right hand and swore that she had never seen Powell. Thinking this bizarre and intense manner of answering the question suspicious, authorities took the entire boardinghouse into custody and upon further searching, discovered that Powell had been living as a boarder in the Surratt boardinghouse for months prior to the assassination. This occurrence was passed on to the military commission and served as a discredit to Mrs. Surratt’s honesty and integrity.¹²

After federal troops rounded up and imprisoned a majority of the conspirators, the press and American public began speculation regarding what kind of trial the alleged assassins would receive. Despite persistent protests from esteemed lawyers and Congressmen across the Union, Johnson considered the Lincoln assassination a war crime and issued an order for a military commission of nine esteemed military officers to “establish order and conduce justice” for the

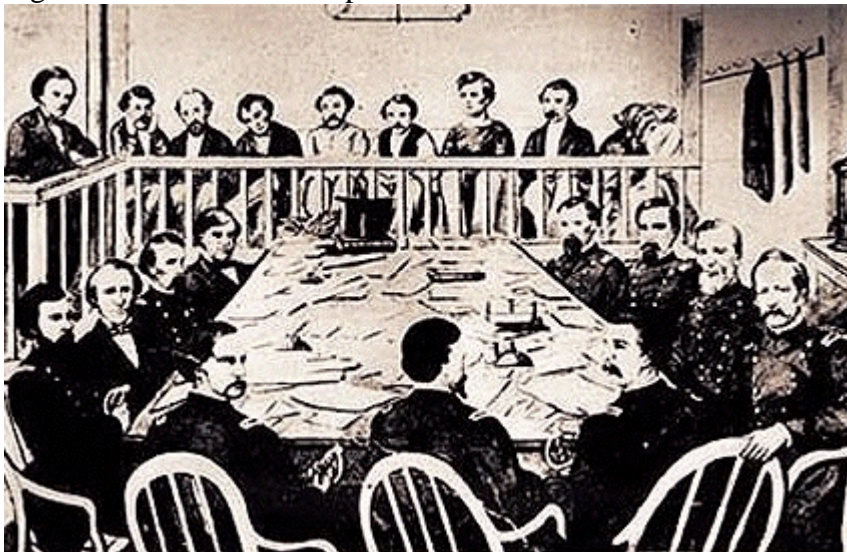
¹⁰ Thomas Reed Turner, *Beware the People Weeping*, (Baton Rouge: Louisiana State University Press, 1982), 155.

¹¹ *The Conspirator Full Length Documentary*, DVD-ROM (New York: American Film Company, 2010), disc 2.

¹² DeWitt, *Judicial Murder*, 42.

American people by trying the conspirators.¹³ The implementation of a military versus a civilian trial sparked debate around the country among Northerners and Southerners alike. After a brief trial where, due to the rules of the military tribunal, she was unable to testify for herself (see Figure 4), Mary Surratt was found guilty of “maliciously, unlawfully, and traitorously, and in aid of the existing armed rebellion against the United States of America...combining, confederating, and conspiring...to kill and murder Abraham Lincoln,”¹⁴ and was sentenced to hang.

Figure 4. Trial of the Conspirators.



Source: “Lincoln Assassination Trial,” Accessed December 2, 2015, <http://law2.umkc.edu/faculty/projects/ftrials/lincolnconspiracy/lincolnaccount.html>.

After being sentenced to death on July 6, news of Mrs. Surratt’s fate spread rapidly across the United States and an assortment of Congressmen including David Dudley Field, James A. MacDougal, and Carl Shurz, lawyers, members of the military commission: Generals Hunter, Kautz, Foster, Ekin, and Colonel Tompkins, newspapers, and American citizens united in fighting

¹³ Andrew Johnson, “Order for Military Trial of Presidential Assassins,” (May 1, 1865), in *Papers of Andrew Johnson*, vol. 8, 12.

¹⁴ “Charge and Specification,” Surratt House Museum, last modified 2013, accessed November 4, 2015, <http://www.surrattmuseum.org/charge>.

for Mrs. Surratt's sentence to be reduced from death to life in prison.¹⁵ They maintained that she should receive a more merciful sentence for a variety of reasons: her age, her gender, a lack of concrete evidence, and especially the unconstitutionality of providing a civilian with a military commission instead of a jury of their peers as the Sixth Amendment of the US Constitution guarantees.¹⁶ Despite these voices, which rang from sea to shining sea, Johnson actively pushed the sentences of all the conspirators, including Mary Surratt, to be as extreme as possible; attempting to discourage future rebellions by instilling the belief that the wrath of the federal government would be merciless and unavoidable in the wake of treason. Because of his need to implement harsh and swift punishment, Johnson did not react to the clemency plea as written specifically by members of the military commission themselves, asking for permission to reduce her sentence, he suspended a writ of habeas corpus that would have retried Mrs. Surratt in a civilian courtroom, and he authorized her execution (see Figure 5), ensuring what 19th century Americans as well as contemporary historians would consider one of the greatest tragedies of the American Civil War.¹⁷

¹⁵ DeWitt, *Judicial Murder*, 110.

¹⁶ Ibid.

¹⁷ Turner, *Beware the People Weeping*, 178.

Figure 5. Execution of the Conspirators.



Source: "Photographic History of the Civil War," Accessed December 6, 2015, <http://www.pddoc.com/photohistory/v7/123.htm>

Historiography of Issues

One of the earliest publications that attacked the legitimacy of the conspirators' trials was David DeWitt's *The Judicial Murder of Mary Surratt* in 1894. As a law professor, DeWitt drew sound conclusions about the unconstitutionality of the trials of the conspirators, particularly Mary Surratt's trial, based on primary sources like the US Constitution and trial transcripts taken directly from Benn Pitman, the official transcriber of Mrs. Surratt's trial. DeWitt delved into the details of martial law during the Civil War, bitterly stating that in 1865, all writs of habeas corpus were restricted as a war time precaution, allowing them to be suspended by the president, granting Andrew Johnson the power to suspend the writ of habeas corpus that John W. Clampitt and Frederick Aiken, members of Mary Surratt's defense council, prepared.¹⁸

Writs of habeas corpus, referred to as the "highest safeguard of liberty" have existed in the US since the 17th century and have, in many cases, served as a way for a third party judge to

¹⁸ "Habeas Corpus Suspension Act," Kansas City Public Library, last modified 2015, accessed December 6, 2015, <http://www.civilwaronthewesternborder.org/timeline/habeas-corpus-suspension-act>.

determine if a prisoner's detainment is lawful.¹⁹ Writs became particularly helpful in situations like Mrs. Surratt's where it was debated that the court had no legal authority to make a conviction. "Most courts seem to have held fast to the usual common law rule that habeas corpus could only upset commitments 'pronounced by a court having no jurisdiction or authority in the subject matter.'"²⁰ During the Civil War, writs of habeas corpus became federally rather than state based, allowing for the passage of the Habeas Corpus Suspension Act of 1863.²¹ The act, passed by Lincoln on September 15, 1863, was intended to extend the detainments of any prisoners of war, spies, or traitors without jury trials, providing more time for federal officials to imprison rebels while they worked to find evidence against them.²² In the case of Mary Surratt, her defense council prepared a writ of habeas corpus, signed by Judge Andrew Wylie that challenged the legality of her detainment and promised her a retrial in a civilian courtroom. This type of writ was rare in that it was prepared after Mrs. Surratt's conviction rather than immediately after her arrest.²³ Aiken and Clappitt appealed to Wylie's sense of duty to the Constitution by reigniting previous debates about the legality of Mrs. Surratt's trial by military tribunal. By suspending this writ, Johnson took a final and distinct stand against Mrs. Surratt that ensured her death sentence was carried out.

The nation responded with an overwhelming outcry after Mrs. Surratt's execution, speaking out harshly against her death in newspapers as well as threatening letters sent to President Johnson, often penned with graphic drawings and haunting signatures from "Mrs. Surratt's

¹⁹ Dallin H. Oaks, "Habeas Corpus in the States: 1776-1865," *The University of Chicago Law Review* 32, no. 2 (Winter 1965): 243.

²⁰ *Ibid.*, 263.

²¹ *Ibid.*, 246.

²² "Habeas Corpus Suspension Act," Kansas City Public Library, last modified 2015, accessed December 6, 2015, <http://www.civilwaronthewesternborder.org/timeline/habeas-corpus-suspension-act>.

²³ Oaks, "Habeas Corpus in the States," 258

Ghost”²⁴. One example, sent from an individual identifying himself as K.W.B reads, “You have approved the sentence of Payne, Mrs. Surratt, Harrold [sic], and Atzeroth [sic] and where [sic] hung July 7th and are now dead. Mr. Johnson I now wish to say to you that this will cost your life, and perhaps your wives to [sic].”²⁵ DeWitt’s research into the trial and execution of Mary Surratt was pivotal in rekindling the nation’s outrage against her execution and pushed for a greater awareness of constitutional rights as well as the importance of maintaining those rights, serving as a heavily biased yet reliable and critical analysis of Mrs. Surratt’s trial for future historians.

DeWitt briefly discusses a Supreme Court ruling passed down in 1866 titled *Ex parte Milligan* which stated that no civilian could be tried for a crime in a military tribunal, even in times of war. In this ruling, written by Justice David Davis, it was determined that:

“It is the birthright of every American citizen when charged with crime, to be tried and punished according to law...By the protection of the law human rights are secured; withdraw that protection, and they are at the mercy of wicked rulers, or the clamor of an excited people. Civil liberty and martial law cannot endure together...in the conflict, one or the other must perish.”²⁶

Relating this decision to the case of Mrs. Surratt, DeWitt argues that had Mrs. Surratt been tried in a civilian courtroom, her life might have been spared. Furthermore, he argues that results are not the only valid measure of justice and even if a civilian court sentenced Mrs. Surratt to death, it would have been a more just sentence than her death at the hands of a military tribunal. With this, DeWitt stressed the significance of combating federal and executive abuses like those committed by Johnson and Stanton’s War Department. DeWitt feared that because of Johnson’s

²⁴ *Presidential Papers of Andrew Johnson* ed. Paul H. Bergeron, vol. 8, May-August 1865 (Knoxville: University of Tennessee Press, 1989), 376.

²⁵ K.W.B. to Andrew Johnson, July 8, 1865, in *Presidential Papers of Andrew Johnson*, vol. 8, 375.

²⁶ “Key Supreme Court Cases,” American Bar, accessed December 6, 2015, http://www.americanbar.org/groups/public_education/initiatives_awards/students_in_action/milligan.html.

example, future presidents would also mistreat the legal system in order to move the country past tragedies as quickly as possible:

“The idea of clemency to any one of the band of assassins, male or female, which his War-Secretary’s court might convict would have been intolerable to his imagination and sickening to his sense of security. What Andrew Johnson, at this moment, wanted was to push away from his mind all thoughts of the tragic end of his predecessor, and to allow retributive vengeance to take the most summary course with the least possible knowledge and trouble to himself.”²⁷

In this passage, DeWitt condemned the urgency with which President Johnson and the federal government rushed through the conspirators’ trials, accusing him of seeking the fulfillment of petty ideals of revenge rather than following the appropriate protocol to ensure justice in the face of perceived terrorism. This vengeance, DeWitt argued, was initiated in part by Johnson himself, but also in part by the American people who were in a state of pure and utter dismay after Lincoln was assassinated. Stories circulated, rumors spread, and suspicion magnified exponentially at the slightest piece of evidence as uncertainty paralyzed the general public. Within this state, America cried out for Johnson to act “unscrupulous enough to plunge into a promiscuous slaughter” for the sake of justice and the establishment of national security as well as a sense of stability.²⁸ As president however, Johnson was burdened with a responsibility to remain conscious of the principles outlined in the Constitution, a responsibility that was left unsatisfied, “In no other way did he ever acknowledge that in taking the life of Mary E. Surratt he had done wrong. He defended his action.”²⁹ Considering Johnson’s unwavering stance against the conspirators, DeWitt contended that all the conspirators, but particularly Mary Surratt, were victims of Johnson’s Reconstruction and that they never truly stood a chance against the prejudice and biases of both

²⁷ DeWitt, *Judicial Murder*, 115.

²⁸ *Ibid.*, 4.

²⁹ *Ibid.*, 247.

the federal government and the members of the military commission who perceived the conspirators as dangerous and traitorous. *The Judicial Murder of Mary Surratt* revolutionized the dialogue surrounding the conspirators from discussions of rebellion and terrorism to debates on military tribunals and the powers of the executive government. This new dialogue produced a less polarized view of the trials and created a more substantial and holistic understanding of Mrs. Surratt's case which contributed to history's memory of justice in the wake of the Lincoln assassination. As one of the earliest works published on the Lincoln conspirators, DeWitt's criticisms of Johnson and the federal government initiated an interesting model for future scholarship on the conspirators, specifically Mary Surratt, guiding researchers into either supporting his claims or rejecting them as absurd and unsupported.

Roughly fifteen years after the publication of *The Judicial Murder of Mary Surratt*, DeWitt authored a second book entitled, *The Assassination of Abraham Lincoln*. Within this book, DeWitt revisited his discussion of Mary Surratt and continued to discredit the federal government. *The Assassination of Abraham Lincoln* avoided claims regarding Mrs. Surratt's guilt or innocence in favor of analyzing primary documents and events to argue that Mrs. Surratt did not receive justice but rather that she was victimized out of revenge by a government that was ready and willing to try anything to pull John Surratt out of hiding, "In the case of Mary Surratt, their (the federal government's) opposition was greatly intensified by the escape of her son...to save the life of the mother was to allow the son to go unwhipped of justice."³⁰ Subsequent historians built arguments on this front, believing the federal government used Mary Surratt as bait to lure John Surratt out of hiding and therefore deeming Mary Surratt's execution as one of the American Civil War's greatest injustices.

³⁰ David DeWitt, *The Assassination of Abraham Lincoln* (Freeport: Books for Libraries Press, 1909), 131.

Speculation built a complex tower of fear in which the country believed a greater conspiracy was in the works, planned by Confederate sympathizers and members of the Lincoln assassination. This suspicion drove the implementation of hasty punishments in order to disband the supposed conspiracy. “The hypothesis of a widespread conspiracy to take off the heads of the government was accepted without question and became a convenient device to make every item of evidence bearing upon the guilt of any individual named in the charge, whether on trial or not, tell as evidence against all the prisoners at the bar.”³¹ Under this environment of suspicion and distrust, the federal government became more interested in prosecuting the conspiracy as a whole rather than considering the actions of each individual in order to further dissolve potential rebellions while also contributing to the sense of safety felt amongst the general public.

President Johnson’s role in Mary Surratt’s execution has been labeled as: “The President was in full command of the situation; his approval must be given before the sentence could be executed; let him, therefore, take the responsibility.”³² With this claim that the responsibility rests on the head of Johnson, DeWitt imparted an ideology that Johnson intentionally worked for Mrs. Surratt’s execution. The reasoning behind the plea for clemency for Mrs. Surratt as written by members of the military commission is then clear, “It is plain that the officers favoring clemency toward Mrs. Surratt were not content to leave the question of commutation to the naked discretion of the executive, but were determined that their own predisposition should be brought to the attention of the President.”³³ Considering the clemency plea that went out from members of the military commission to the President, the thought process of Andrew Johnson ordering Mrs.

³¹ DeWitt, *Assassination of Abraham Lincoln*, 113.

³² *Ibid.*, 132.

³³ *Ibid.*, 132.

Surratt's execution is unclear and several complex questions remain on why he chose to ignore advice from nine highly trained and heavily decorated military heroes in America who supported a sentence of life in prison for Mrs. Surratt rather than a death sentence.

As the first president who did not study law nor was a celebrated military hero, Johnson's legacy is categorized, by some, as the "courageous commoner" who educated himself and filled nearly every political office before his death.³⁴ This portrayal of "courageous commoner" is not agreed upon by all historians, many of whom describe Johnson as "the worst possible person to have served as President...because of his gross incompetence in federal office and his incredible miscalculation of the extent of public support for his policies, Johnson is judged as a great failure."³⁵ Some historians go so far as to classify Johnson as a "rigid, dictatorial racist who was unable to compromise or to accept a political reality at odds with his own ideas...In the end, Johnson did more to extend the period of national strife than he did to heal the wounds of war."³⁶ These classifications of Johnson as a substandard Commander-in-Chief are the culmination of each decision that he made while in office. Admittedly, Johnson did lead the nation out of the Civil War and did his best to heal a broken country but was insufficient in many areas and failed to see his shortcomings.

Other scholars like Eric L. McKittrick described Johnson with the words "direct and immediate," defining his presidency as, "essentially abstract. Concrete problems never had the power to engage his interest that 'principles' had; the principles of equal rights, local self-rule,

³⁴ "History and Culture," Andrew Johnson National Historic Site, last modified December, 2015, accessed December 6, 2015, <http://www.nps.gov/anjo/learn/historyculture/index.htm>.

³⁵ "Andrew Johnson Impact and Legacy," Miller Center, University of Virginia, last modified 2015, accessed December 6, 2015, <http://millercenter.org/president/biography/johnson-impact-and-legacy>.

³⁶ Ibid.

states' rights as well as Union, and strict constitutionalism,”³⁷ McKittrick's book titled *Andrew Johnson and Reconstruction* was the first to say that Republicans, not Johnson were correct on the matter of black freedom and provided one of the earliest in-depth criticisms of Johnson's entire presidency.

Johnson utilized the same direct and immediate approach as described by McKittrick in full force the day after Lincoln's death, on April 16, 1865, when he erupted, “Treason must be made infamous and traitors must be impoverished.”³⁸ This perspective undoubtedly guided Johnson's decisions throughout Mary Surratt's trial and pressured him into guaranteeing that Mrs. Surratt along with the other conspirators, were in fact made infamous and impoverished. The quote however provides little understanding for how Johnson's attack of Mrs. Surratt occurred during the same time frame that he pardoned notorious Confederates like Robert E. Lee. Further aiding this confusion, historian Albert Castel writes, “Johnson took no heed of letters he received prior to the execution discrediting some testimony used to convict Mrs. Surratt.”³⁹ This indicates the unhealthy urgency with which Johnson proceeded through Mrs. Surratt's trial and execution, implying the trial was rushed through for the sake of burying the nation's grief. This instance is one of many in Johnson's presidency that serves as proof that his presidency was riddled with profound errors in judgment.

Within the 1980s, scholarship on Mary Surratt and Andrew Johnson surged and reflected previous debates as well as discussions of the innocence and morality of both parties. Overall,

³⁷ Eric L. McKittrick, *Andrew Johnson and Reconstruction*, (Chicago: The University of Chicago Press, 1960), 88-89.

³⁸ George W. Julian, *Political Recollections*, (Chicago: Jansen, McClurg & Company, 1884), 257, quoted in McKittrick, *Johnson and Reconstruction*, 91.

³⁹ Albert Castel, *The Presidency of Andrew Johnson*, (Lawrence: The Regents Press of Kansas, 1979), 34-35.

historians continued to portray Mrs. Surratt as an unfortunate casualty of Andrew Johnson's presidency and as a tool for Reconstruction. In *The Lincoln Murder Conspiracies*, William Hanchett examines the troubling role which Mrs. Surratt played during her son John Surratt's trial two years after her execution in 1867, "Mrs. Surratt was portrayed as the innocent victim of wartime hatreds and the desire for revenge, wicked emotions that the Republicans were alleged to be perpetuating."⁴⁰ Johnson is additionally criticized and condemned for his role in the execution of Mary Surratt, "The president himself had approved the commission's findings and sentences, and, 'when it was suggested by some of the members of the commission that in consequence of the age and sex of Mrs. Surratt it might possibly be well to change her sentence...he signed the warrant for her death with the paper right before his eyes,'"⁴¹ reporting an almost inhuman version of Johnson that served to reinforce his reputation for being relentless and unforgiving against Mrs. Surratt.

Historians' view of Mary Surratt progressively evolved into one resembling a scapegoat or martyr rather than simply a victim. Though still arguing her execution was an injustice, the 1980s focused on societal and cultural factors in her hanging rather than legal explanations. Quoting figures like William Emile Doster, the primary defense attorney for executed conspirators Powell and Atzerodt, historians described Mrs. Surratt's death as a cautionary tale for Confederates. "In many respects, the execution of Mrs. Surratt was symbolic," supporting DeWitt's 19th century claims with, "More than all, it was the period proper for punishment of the rebellion and somebody must be hanged for example's sake."⁴² Mrs. Surratt's execution was additionally portrayed as a

⁴⁰ William Hanchett, *The Lincoln Murder Conspiracies* (Chicago: University of Illinois Press, 1983), 87.

⁴¹ Hanchett, *Lincoln Murder Conspiracies*, 87.

⁴² William Emile Doster, *Lincoln and Episodes of the Civil War*, (New York: G.P. Putnam's Sons, 1915), 258-259.

necessary evil and one that produced necessary consequences. Civil War general and member of the military commission that tried Mrs. Surratt, General August Kautz noted, “It was apparent to me...that there would be a reaction and those who were instrumental in her execution would regret that they had permitted Mrs. Surratt to be hung.”⁴³ Kautz’s theory proved correct as the American public’s reaction to Mary Surratt’s execution gained a larger following than anticipated, garnering support not only from Southerners and radical justice activists but from ordinary citizens and Northerners as well.

Contradicting these popular conceptions is historian Thomas Reed Turner’s defense of Johnson’s actions in *Beware the People Weeping*, a widely published book that looked into public opinion following the Lincoln assassination. Arguing in favor of the president and his apparent disregard for the military commission’s clemency plea, Turner wrote: “Since Johnson did consider one of the arguments in the petition, sex...it does not appear that he would have changed his mind, although a plea signed by five members of the court would have presented him an easy out had he wished to take it.” Turner continues on to discuss the way in which Johnson discoursed Mrs. Surratt’s case in the years following her execution, noting that Johnson answered questions on the topic “manfully and not apologetically,”⁴⁴ indicating his belief that Johnson acted as judiciously as possible during a chaotic and stressful time in his presidency.

Near the end of the decade, in 1989, came the publication of the *Presidential Papers of Andrew Johnson* by the University of Tennessee Press, providing critical insight into the controversial figure and sparking new dialogue about his tainted presidency. Editor Paul H. Bergeron describes Johnson’s presidency, partially condemning Johnson’s negative traits while

⁴³ August Valentine Kautz, *Reminiscences of the Civil War*, 1865, 111 quoted in Turner, *Beware the People Weeping*, 181.

⁴⁴ Turner, *Beware the People Weeping*, 179.

acknowledging his hardships and the intensity of the obstacles he overcame. Among these obstacles is the way in which he was brought into the presidency: by assassination. Though never an easy task, Johnson utilized the position's advantages to implement his own agenda and goals without hindrance or opposition. "Undeniably the greatest advantage which he [Johnson] enjoyed was that Congress was not in session...Johnson was therefore virtually free to fashion his own reconstruction program without serious challenge from other political leaders; and in fact that is precisely what he did."⁴⁵ Johnson's lasting legacy is remembered, often times, by his actions regarding the Lincoln assassination and, because of the assassination's impact on his presidency, the choices made in the spring and summer of 1865 followed Johnson for the rest of his political career in varying levels of impact.

In more recent scholarship, historians like Kate Clifford Larson delve into deeper issues regarding the execution of Mary Surratt, including a more modern perspective on the Civil War, the Confederacy, and the validity of claims about Mary Surratt's guilt or innocence. *The Assassin's Accomplice* (2010) provides extremely in-depth information about Mary Surratt and the Lincoln assassination, spending a large amount of time debating whether or not Mary Surratt was actively involved in the Lincoln assassination plot. Larson looks into previously unexamined political, social, and economic factors that fueled the Lincoln conspirators. Larson's focus on Mary Surratt's life during the Civil War, including her suspected romantic relationship with John Wilkes Booth and her acquaintanceship with other convicted conspirators is critical to contemporary study of Mary Surratt's sentence and execution.⁴⁶ Although Larson spends extensive time debating the guilt or innocence of Mrs. Surratt, she avoids making conclusive claims about her guilt. This

⁴⁵ Bergeron, *Papers of Andrew Johnson*, vol. 8, xxvii.

⁴⁶ Kate Clifford Larson, *The Assassin's Accomplice* (New York: Basic Books, 2010), 1.

phenomenon is strikingly common among 21st century historians who examine the trial of Mary Surratt. Aside from works like the American Film Company's major motion picture, "The Conspirator," few works take a side on the extent to which Mrs. Surratt was involved in the Lincoln assassination.⁴⁷ In the years approaching the 150th anniversary of the Lincoln assassination, historians became less interested in black and white answers to "Was she or wasn't she guilty?" in favor of trying to understand all aspects of the Lincoln assassination while also examining the trial and execution of Mary Surratt in as objective of a perspective as possible.

Within these extensive examinations of both Mary Surratt's execution and Andrew Johnson's presidency, there is insufficient analysis of Johnson's later writings which are needed in order to discover his feelings about the death of Mrs. Surratt later in his political career. While previous scholarship exists in nearly every area of Mary Surratt's trial and the presidency of Andrew Johnson, it is critical to examine Johnson's thoughts about Mrs. Surratt after the chaos of the Civil War settled down, during the implementation of Reconstruction policies across the US, and as Johnson continued to pursue political offices. This kind of analysis provides insight for the modern historian who examines the Lincoln assassination and is perplexed by Johnson's lack of remorse over the death of Mary Surratt. Additionally, study of Mrs. Surratt's case and the death of Lincoln can be related to discussions of other conspiracies including the assassination of President John F. Kennedy which was also believed to have been initiated by a wider conspiracy. "It is important to note that people cannot conceive of a president being killed except by a wide-ranging conspiratorial group."⁴⁸ While no trial was had for Kennedy's assassin, Lee Harvey Oswald, due to his untimely murder, the public was in a similar state of panic and distress when JFK was shot

⁴⁷ *The Conspirator*, directed by Robert Redford (American Film Company, 2010), DVD (Lionsgate Roadside Attractions, 2011).

⁴⁸ Turner, *Beware the People*, xiii.

in Dallas, Texas on November 22, 1963. The repetition of such conspiracies in America requires the need for an understanding of how previous conspiracies formed and grew as well as the actions and consequences of those conspiracies, particularly within the execution of Mary Surratt.

Primary Source Analysis

On the night of Lincoln's assassination, as Andrew Johnson learned he would be taking charge of America as Commander-in-Chief, he recalls, "I walked on the floor, feeling a responsibility I never felt heretofore. More than a hundred times I said to myself, what will the calm and correct historian say to my acts and administration one hundred years from now?"⁴⁹ This troubling question of the opinions and criticisms of future historians no doubt tormented the mind of Johnson as he pursued what he believed to be justice for Lincoln, directing his understanding of the best course of action against the conspirators.

On May 1, 1865, Johnson issued an Order for the Military Trial of Presidential Assassins. During the Civil War, military tribunals were used frequently and were virtually limitless in their authority and scope across the US.⁵⁰ Johnson, under the counsel of Stanton, decided that a military trial should be used for the Lincoln conspirators and commanded that nine competent military officers be selected to comprise the commission for Mary Surratt and seven other conspirators. Selecting these nine officers as members of the military commission ensured that Johnson's will would be done within the courtroom, "The people who serve 'are selected by the military commander from among his own subordinates, who are bound to obey him, and responsible to him; and therefore, they will, commonly, find the case as required or desired by the commander

⁴⁹ Castel, *Presidency of Andrew Johnson*, 218.

⁵⁰ Louis Fisher, *Military Tribunals: Historical Patterns and Lessons* (Washington DC: Report for Congress, 2004), 16, accessed December 11, 2015, <http://fas.org/irp/crs/RL32458.pdf>.

who selected them.’”⁵¹ Johnson ordered these nine officers to “establish such order, or rules of proceeding as may avoid unnecessary delay, and conduce to the ends of public justice.”⁵² This vague interpretation of justice became controversial for figures like Judge R.A. Watts who served the military commission for Mary Surratt as the Acting Assistant Adjutant General who referred to the tribunal as “a law unto itself. It made its own rules of procedure. It was the sole judge of the law as well as the facts. It was empowered not only to decide the question of guilt but it also had the power, and it was its duty, to fix the penalties.”⁵³ With this, President Johnson provided the military commission with virtually free reign over the trials, allowing them to regulate how order was established, what constituted order, what was to be considered an “unnecessary delay” and what the balance should be between the concept of public justice and justice for each and every one of the conspirators on trial. “Courts-martial...exist because of a statute enacted by Congress ‘and the members thereof have legal duties and rights,’ whereas military tribunals ‘exist only by the will of the commander, and that will is their known rule of proceeding.’”⁵⁴ In granting such extensive and indiscriminate powers to a group of nine individuals, Johnson enabled the potential for injustice to brew out of personal biases and prejudices from the onset of the trial.

In stark opposition to this side of Johnson that depicts a harsh, relentless president, Johnson issued a series of documents that reflected a merciful and sympathetic president at the end of May. On May 29, 1865, the Proclamation of Amnesty and Reconstruction promised full forgiveness to any former Confederates who reaffirmed their allegiance to the Union. “I, Andrew Johnson,

⁵¹ Howard K. Beale, *The Diary of Edward Bates, 1859-1866* (1933; repr., Washington DC:Beale Press, 2007) , 498-503.

⁵² Andrew Johnson, “Order for Military Trial of Presidential Assassins,” (May 1, 1865), in *Papers of Andrew Johnson*, vol. 8, 12.

⁵³ Fisher, *Military Tribunals: Historical Patterns and Lessons*, 30.

⁵⁴ *Ibid.*

President of the United States do proclaim and declare that I hereby grant to all persons who have directly or indirectly participated in the existing rebellion, except as hereinafter excepted, amnesty and pardon, with restoration of all rights of property.”⁵⁵ Second, Johnson issued an order that reinstated the constitutional government to North Carolina, with other states in the Confederacy soon to follow.⁵⁶ These two orders indicate a forgiving and welcoming Johnson who was concerned primarily with reuniting the Union and moving past the Civil War which has been warmly received by white southern historians who are typically sympathetic to these Reconstruction policies and use them to enforce an ideal of Johnson as kind-hearted president rather than the vindictive president that is seen through the lens of Mary Surratt’s execution.

In light of the compassion exhibited towards former Confederates at the end of May and into June of 1865, the military commission held two secret deliberation sessions after the conclusion of the conspirators’ trial on June 29 and 30.⁵⁷ At the last of these sessions, a majority of the commission felt that the gender, age, and circumstances of Mrs. Surratt and her trial did not justify the death penalty and five of the nine members signed the following clemency plea:

“The undersigned members of the Military Commission detailed to try Mary E. Surratt and others for the conspiracy and the murder of Abraham Lincoln, late President of the United States & respectfully pray the President, in consideration of the sex and age of the said Mary E. Surratt, if he can, upon all the facts in the case, find it consistent with his sense of duty to the country, to commute the sentence of death, which the Court have been constrained to pronounce, to imprisonment in the penitentiary for life.”⁵⁸

Despite this plea, Johnson remained resolute in his quest for revenge, signing off on the executions of Mrs. Surratt and three other conspirators: Lewis Powell, George Atzerodt, and David Herold,

⁵⁵ “Freedom and Emancipation: A Proclamation of Amnesty and Reconstruction,” PBS, last modified 2004, accessed December 4, 2015, <http://www.pbs.org/wnet/slavery/experience/freedom/docs7.html>.

⁵⁶ Ibid.

⁵⁷ DeWitt, *Judicial Murder*, 96.

⁵⁸ Ibid., 110.

ordering their sentences to be “carried into execution by the proper military authority under the direction of the Secretary of War.”⁵⁹ Critics of Johnson argued that within this Presidential Order, he passed the responsibility for execution onto the War Department in an effort to shift any potential blame for Mrs. Surratt’s execution to the Edwin Stanton, despite Johnson’s ability, as president, to save her life.

Select members of the federal government spoke out in favor of President Johnson’s decision to carry out Mrs. Surratt’s death sentence, viewing it as an essential step in delivering harsh punishments to a treasonous act and thereby making her a cautionary tale for future rebel plots. Additionally, many were wary of the new kind of woman that the Civil War introduced: a kind of woman who was tough, blunt, and not afraid to get her hands dirty. “Some (women) privately or publicly, with shrewd caution or gleeful abandon—chafed at the limitations society had set for them...Each, in her own way, was a liar, a temptress, a soldier, and a spy, often all at once.”⁶⁰ Because of this shocking transition in the roles of women, some believed that, “Clemency to her (Mary Surratt) would be of evil example; the women of the South were worse rebels than the men.”⁶¹ Moreover, it was believed that had President Johnson granted clemency to Mrs. Surratt, women would have dipped even further into the world of crime by falling as prey to unscrupulous male criminals who would use them for their dirty work:

“If the death penalty should be commuted in so grave a case as the assassination of the head of a great nation on account of the sex of the criminal, it would amount to an invitation to assassins hereafter to employ women as their instruments, under the belief that if arrested and condemned they would be punished less severely than men. An act of executive

⁵⁹ Andrew Johnson, “Order re Lincoln Assassins,” (July 5, 1865), in *Papers of Andrew Johnson*, vol. 8, 357.

⁶⁰ Karen Abbott, *Liar, Temptress, Soldier, Spy*, (New York, New York: Harper Collins Publishers, 2014), xii.

⁶¹ DeWitt, *Assassination of Abraham Lincoln*, 131.

clemency on such a plea would be disapproved of by the government of every civilized nation on earth.”⁶²

Arguments like this resonated strongly with a small variety of Congressmen and lawyers who felt that national security was the most important issue following the Civil War and the Lincoln assassination.

Yet, others held fast to the principles of justice as outlined in the US Constitution and remained adamant that executing Mrs. Surratt was the wrong choice. These individuals commented, not on Mrs. Surratt’s guilt or innocence, but rather appealed to Johnson’s sense of moral call, pleading with him to demonstrate the same compassion he provided other Confederates. David Dudley Field, a seasoned Congressman from New York wrote to President Johnson regarding Mrs. Surratt’s case, “This is a matter of great embarrassment to all of us who have been educated to dread encroachments upon the Constitution.”⁶³ California senator James A. McDougall pleaded, “Extend to her your grace. I presume you have done it. If you have not, then do it. It will be a noble Christian act—whatever the sin.”⁶⁴ Similarly, Union General and emerging Radical Republican, Carl Schurz advised Johnson that Mrs. Surratt’s trial would make a joke out of America because any evidence garnered against Mrs. Surratt would be perceived as having been garnered specifically to prosecute Mrs. Surratt with little regard for justice:

“When the Government charged, before the whole world, the chiefs of the rebellion with having instigated the assassination of Mr. Lincoln, it took upon itself the grave obligation to show that this charge was based upon evidence sufficient to bear it out...But the Government is bound to lay it before the world in a manner which will command the respect even of the incredulous.”⁶⁵

⁶² DeWitt, *Assassination of Abraham Lincoln*, 139.

⁶³ David Dudley Field to Andrew Johnson, June 8, 1865, in *Papers of Andrew Johnson*, vol.8, 201.

⁶⁴ James A. McDougall to Andrew Johnson, July 6, 1865, in *Papers of Andrew Johnson*, vol 8, 362.

⁶⁵ Carl Schurz to Andrew Johnson, May 13, 1865, in *Papers of Andrew Johnson*, vol. 8, 67.

Considering the writings and thoughts of such prominent American lawmakers and politicians, Johnson's decision to support and promote the execution of Mary Surratt is all the more curious.

John W. Clampitt, a member of the defense for Mrs. Surratt wrote his thoughts on her execution fifteen years after her hanging and placed the blame for her injustice primarily on Andrew Johnson. Clampitt condemned Johnson and recalled the tragic moment of walking to the Washington Arsenal Penitentiary to visit Mrs. Surratt one last time writing, "With the suspension of the writ, and the refusal of the President to grant a respite, all hope faded, and we proceeded to the Arsenal to take a last farewell of the doomed and innocent woman,"⁶⁶ painting Johnson essentially as the one who tied the rope around her neck. "One idea possessed the multitude, and that was revenge; and, in the madness of the hour and an insane desire for retribution, the innocent were made to suffer for the guilty. I was an eye-witness of this sudden and terrible revulsion of popular feeling that finally ended in the shedding of innocent blood."⁶⁷

The man behind this apparent shedding of "innocent blood", who came to be seen as one of America's most infamous and notorious presidents because of his tendency towards alcohol and his frequent use of the presidential veto, is well documented within the sixteen volumes of the *Presidential Papers of Andrew Johnson*. These papers elaborate on his presidency as well as his contributions post-presidency until his death in 1875. Particularly prominent in these papers are references to the trial of the conspirators, both throughout 1865 as well as in later years when he was asked by reporters and hecklers alike to reflect on the trials and sentences of the conspirators, especially that of Mary Surratt. While few spectators commented on the executions of Powell,

⁶⁶ Clampitt, "The Trial of Mrs. Surratt," 238.

⁶⁷ Ibid., 223-224.

Herold, and Atzerodt, Mrs. Surratt was remembered as an injustice of the war because her guilt, unlike that of Powell, Herold, and Atzerodt, was not clearly proven by her trial.

When asked these questions about Mrs. Surratt, Johnson demonstrated virtually no signs of regret over her death and irrefutably argues that he was acting both reasonably and rationally. “There was no ground for pardon; except for that she was a woman...Here we begin to see a sort of sympathy with conspirators. All that I did was to let the law take its course.”⁶⁸ Even as a fellow human being, Johnson shows a certain lack of understanding over the significance of Mrs. Surratt’s death. “That sort of thing has no sort of influence on me. In reference to all those matters I did my duty.”⁶⁹ Remaining objective and cold-hearted, Johnson only speaks of Mrs. Surratt under the umbrella of a rebel conspirator who threatened society and attempted to dismantle the federal government rather than as a middle-aged widow with three children to care for. “In 1865 the city of Washington was an armed camp, Lincoln was our commander-in-chief; he was foully murdered, and a court duly organized sat upon the case and convicted his murderers, a woman included; I was unwilling to pardon her; and that is all there is to it.”⁷⁰

In order to further justify Mary Surratt’s execution, Johnson’s portrayal of a post-Civil War United States is one that, though accurate, 21st century Americans could scarcely imagine, “Notwithstanding the nation was in delirium; notwithstanding sympathy and excitement ran high – ran from one end of the land to the other – notwithstanding the rebellion had just collapsed, though peace was not made; passion and anger had grown out of it.”⁷¹ This depiction of the US

⁶⁸ Andrew Johnson, “Untitled Speech” (speech, at Chattanooga Tennessee, October 28, 1874). in *Papers of Andrew Johnson*, vol. 16, 605.

⁶⁹ Andrew Johnson, “Untitled Speech” (speech at Memphis Tennessee, May 16, 1874). in *Papers of Andrew Johnson*, vol. 16, 553.

⁷⁰ Thomas Lately, *The First President Johnson*, (New York, New York: William Morrow, 1968), 625.

aids Johnson's claims that Mrs. Surratt needed to be punished to the full extent of the law in order to maintain a sense of national security in a time of turmoil. It does little, however, to comfort the modern historian who, reflecting on the principles of the US Constitution, believes Mrs. Surratt ought to have been tried by the type of trial that is described by the sixth amendment: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury" as well as the limitations on punishments described in the eighth amendment, "Nor cruel and unusual punishment inflicted".⁷² Constitutional advocates harshly criticized Johnson's disregard for individual justice for the sake of issuing punishments like Mrs. Surratt's which was perceived as cruel because she was a woman as well as a mother and middle-aged widow.

Johnson expressed little concern over Mrs. Surratt's execution, believing that it would not hinder his future political endeavors in any way, "It's all clap-trap – all talk and no influence. Not ten men in the State attach any real importance to the story."⁷³ Additionally, as Johnson continued maneuvering throughout his presidency, the issue of the Lincoln assassination was discussed less and less as the nation healed over Lincoln's death and initiated debate on the actions of Johnson himself. The remainder of Johnson's presidency featured heavy disagreements between Johnson and members of Congress who grew agitated against him for his frequent use of the presidential veto, utilizing the veto more times than any other president before him.⁷⁴ Based on this conflict, Congress passed the Tenure of Office Act in 1867 which prohibited the removal of any government official who required the Senate's approval for appointment. This law was intended to protect the

⁷¹ Andrew Johnson, "Untitled Speech" (speech at Memphis Tennessee, September 11, 1872). in *Papers of Andrew Johnson*, vol. 16, 361.

⁷² US constitution, amend. 6, 8.

⁷³ Andrew Johnson, interview by New York Herald Correspondent, *New York Herald*, September 27, 1872, in *Papers of Andrew Johnson*, vol. 16, 379.

⁷⁴ "History and Culture," Andrew Johnson National Historic Site, last modified December, 2015, accessed December 6, 2015, <http://www.nps.gov/anjo/learn/historyculture/index.htm>.

position of Edwin Stanton who had ceased appeasing Johnson and began openly and actively opposing him on nearly every issue.⁷⁵ Ignoring this law and believing that Stanton was unfit for office, Johnson suspended Stanton as Secretary of War, inciting claims that Stanton's suspension was an unconstitutional use of Johnson's presidential power, leading to his impeachment trial in 1868.⁷⁶

During the height of this impeachment trial, Johnson pardoned three convicted conspirators. Sentenced to hard labor at Dry Tortugas, a prison located on a small group of islands off the Florida Keys in the Gulf of Mexico, Samuel Mudd, Samuel Arnold, and Edmund Spangler all received the mercy of President Johnson when an outbreak of illness and disease hit the prison, resulting in the deaths of many prisoners. The pardoning of Mudd, Arnold, and Spangler less than four years after the assassination reinforces Johnson's level of tolerance and forgiveness of Confederates. These pardons also raise questions about Johnson's lack of remorse over Mary Surratt. Such a distinctly polarized view of forgiveness of Mary Surratt versus the forgiveness granted to the conspirators pardoned by Johnson creates a troubling discrepancy about how Johnson's priorities as a president shifted from the time of the Lincoln assassination to his impeachment trial.

Considering Johnson's consistency regarding the legitimacy and necessity of Mrs. Surratt's execution, DeWitt, Hanchett, Turner and other historians have questioned why Johnson pardoned three convicted Lincoln conspirators in 1869, just four years after the assassination. In regards to his Reconstruction policies, scholars believe that starting with the Amnesty Proclamation on May 29, Johnson became more willing to forgive rebels for their war crimes, pardoning Robert E Lee

⁷⁵ Douglas O. Linder, "The Impeachment Trial of Andrew Johnson," University of Missouri: Kansas City, accessed December 6, 2015, http://law2.umkc.edu/faculty/projects/ftrials/impeach/imp_account2.html.

⁷⁶ Linder, *Impeachment Trial of Andrew Johnson*.

among others. Johnson started the first two weeks of his presidency as harsh and merciless and quickly shifted towards a more understanding figure that was chiefly focused on reuniting the Union. “Then, in view of a pardoning policy which became progressively milder as the months went on...In any case he could be, for all his obstinacy, a forgiving man.”⁷⁷ As what some would call a “forgiving man,” one would naturally assume that Johnson employed the use of pardons on a regular basis.

One of these pardons was granted to Dr. Samuel Mudd, a physician who was convicted for providing medical care to Booth’s injured leg after the assassination as well as sheltering Booth and his accomplice Herold during their escape out of Washington DC. Many of Mudd’s family, friends and supporters, including a gentleman by the name of Richard D. Goodwin, wrote to Johnson, asking for a pardon on behalf of Mudd. “It is yet in your power to make some atonement, and I now ask you, as a friend to humanity, in the name of Justice...do not let the fourth day of March pass before you pardon Dr. Mudd...now suffering a fate worse than death, on the Dry Tortugas.”⁷⁸

Curiously enough, roughly two years after Dr. Mudd’s conviction in 1867, his wife Frances received a promise from President Johnson that Dr. Mudd, O’Laughlin, and Arnold would be released from their imprisonment. This promise remained unfulfilled due to apparent interference within the government until February 8, 1869, at the end of Johnson’s presidency when he drafted a full and unconditional pardon for Mudd, O’Laughlin, and Arnold and gave it to Frances Mudd, writing, “Mrs. Mudd, I have complied with my promise to release your husband before I left the White House. I no longer hold myself responsible.”⁷⁹ This note was written by Johnson less than

⁷⁷ McKittrick, *Johnson and Reconstruction*, 91-92.

⁷⁸ Richard D. Goodwin to Andrew Johnson, January 10, 1869, in *Papers of Andrew Johnson*, vol. 15, 369.

one month after receiving Goodwin's letter and noted that Mudd should not be faulted for maintaining his duty as a doctor when he aided Booth and therefore he could not be punished for his chosen profession:

“And whereas it is represented to me by intelligent and respectable members of the medical profession, that the circumstances of the surgical aid to the escaping assassin and of the imputed concealment of his flight are deserving of a lenient construction as within the obligations of professional duty, and thus inadequate evidence of a guilty sympathy with the crime or the criminal.”⁸⁰

Within this realm of presidential forgiveness and the promise made from Johnson to Mrs. Mudd just two years after the assassination of Lincoln, certain implications are made about the extent to which Johnson began to sympathize with former Confederates and the conspirators. However, for reasons known only to Johnson, this sympathy was not carried over into the case of Mary Surratt. Still, others argue that granting a pardon serves as more of an act of simple executive power rather than an act of genuine forgiveness or mercy. “What Johnson never did do with the pardoning power was to use it consciously as a mode of communication. The ‘remorse’ aspect was probably rather fanciful; the benefits of Executive pardon were tangible enough that in most cases a man’s failure to experience inner stirrings of repentance would still not have deterred him from applying as a matter of routine.”⁸¹ Considering this, it is unclear whether or not Johnson truly utilized pardons as a way to demonstrate mercy to Mudd, O’Laughlin, and Arnold or if he simply wanted to assert what executive power he had to agitate Congress during his impeachment trial. Either way, despite his written support and understanding of Dr. Mudd’s occupation, Johnson never accounted for the fact that as a boardinghouse owner, Mrs. Surratt was required to welcome

⁷⁹ Samuel Carter III, *The Riddle of Dr. Mudd*, (New York: G.P. Putnam’s Sons, 1974), 335.

⁸⁰ Andrew Johnson, Executive Pardon, “Pardon of Samuel J. Mudd,” (February 8, 1869), in *Papers of Andrew Johnson*, vol. 15, 425.

⁸¹ McKittrick, *Andrew Johnson and Reconstruction*, 149-150.

boarders into her home. Additionally, as a widow and single mother, Mrs. Surratt was overwhelmed with her late husband's debts, necessitating that she accept any and all boarders that she could in order to make ends meet.⁸² In many ways, Mrs. Surratt had her hands tied even before she stood on the gallows, being financially unable to kick boarders out of her home even if she opposed their political ideologies or if they were hatching conspiracies against the Union government.

Notwithstanding a resounding lack of remorse for his decisions regarding Mary Surratt, President Johnson committed an act of humanity in 1869 that was three years in the making. Anna Surratt, the daughter of Mary Surratt, wrote letters to the President on multiple occasions since the day of her mother's execution, pleading with Johnson to deliver her mother's remains to the family in order to provide them with a sense of closure. Johnson left Anna Surratt's letters unanswered for years but eventually ordered Mary Surratt's remains be delivered to Anna Surratt on February 5, 1869, demonstrating his first act of kindness towards the Surratt family.⁸³ Additionally, the bodies of Lewis Powell, David Herold, George Atzerodt and John Wilkes Booth himself were taken out of the stone floor of the Washington Arsenal Penitentiary and given to the families at the ordering of Johnson. Newspapers gave little notice of this event and only reported so objectively, not granting Johnson any credit or sense of humanity, a journalistic decision which even modern historians agree was reasonable.⁸⁴

Conclusion

⁸² *The Conspirator Full Length Documentary*, DVD-ROM (New York: American Film Company, 2010), disc 2.

⁸³ Anna Surratt to Andrew Johnson, (February 3, 1869), in *Papers of Andrew Johnson*, vol. 15, 420.

⁸⁴ Washington Star, February 8, 1869, quoted in Hanchett, *Lincoln Murder Conspiracies*, 88-89.

Faced with the difficult task of navigating a post-assassination presidency, Andrew Johnson dove into his executive power immediately after taking office, initiating a series of Executive Orders which doomed each of the conspirators in the Lincoln assassination, including civilian Mary Surratt, to military trials. Mrs. Surratt's military tribunal, along with other actions taken by Johnson including his snubbing of a clemency plea drafted by the military commission, his suspension of a writ of Habeas Corpus, and his ordering of Mrs. Surratt's execution has led a vast majority of historians to place much of the blame for Mrs. Surratt's death on Johnson himself. Given a rather overwhelming amount of blame, Johnson never wavered from his stance on Mary Surratt, arguing before, during, and after her execution that she was rightfully hung and continuously advocating for his actions until his death in 1875. Johnson's view of Mrs. Surratt remained unhindered by newspapers, fellow Congressmen, Senators, and threatening letters sent to the White House anonymously. With such a relentless reputation, scholars have described Johnson as a variety of things: America's worst president, a drunken Southerner, betrayer of the Radical Republicans, and a forgiving Reconstructionist. The last of these is particularly problematic after analyzing the works and writings of Johnson, which show he felt no symptoms of remorse or guilt over his role in the death of Mary Surratt. Yet, perhaps this sense of shame can be found within simpler acts including the pardoning of conspirators Samuel Mudd, Michael O'Laughlin, and Samuel Arnold in 1869 or in returning the remains of Mrs. Surratt and other executed conspirators to their families that same year in order for them to gain some closure from a traumatic experience which was dragged out for four years. Ultimately, Johnson's lack of sympathy for the assassination was perhaps fueled by a belief that Mrs. Surratt was the ultimate carnation of evil among the Confederacy and thus needed to be punished so severely that neither

she nor any Confederate sympathizers would dare to strike such a fatal blow against the very life of his republic again.

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