

0. CONSPIRATORS and the MILITARY COMMISSION -
Story Preface

1. MARY SURRETT

2. EVENTS at the SURRETT BOARDINGHOUSE

3. JOHN WILKES BOOTH and HIS PLANS

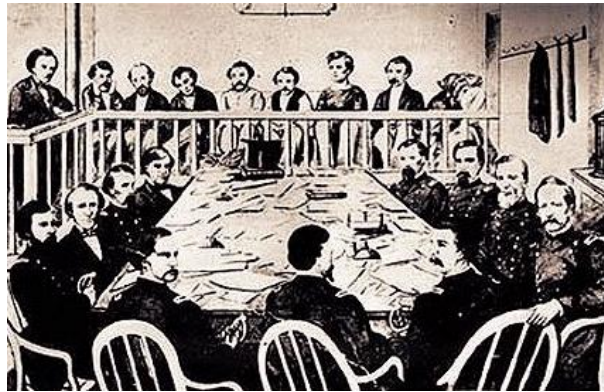
4. CAPTURE and DEATH of JOHN WILKES BOOTH

**5. CONSPIRATORS and the MILITARY
COMMISSION**

6. FREDERICK AIKEN and the TRIAL of MARY SURRETT

7. EXECUTION of MARY SURRETT

8. AFTER THE CONSPIRACY TRIAL



Mary Surratt and the other so-called "Lincoln Conspirators" were tried by a military commission, not by a jury of their peers. This contemporary image depicts the defendants, at the top of the picture, with Mrs. Surratt on the right side. Image online, Wikimedia Commons.

While the soldiers were at Mary Surratt's boardinghouse, the night of April 17, someone else knocked on the door. It was a disheveled-appearing man with a pick-axe in hand. Who was he? What did he want at that hour of the night?

Inviting him in, the officer-in-charge asked the visitor about the purpose of his visit. He said he was checking with Mrs. Surratt, to see what time she wanted him to dig a gutter the next morning.

Doubting the man was telling the truth, the officer summoned Mrs. Surratt. She swore she did not know him. After finding pictures of John Wilkes Booth - and Confederate generals - in the house, the soldiers took no chances. They arrested the visitor - Lewis Powell (a/k/a Lewis Payne) - Mrs. Surratt, and several other boardinghouse residents.

With John Wilkes Booth still at-large, investigators wanted to build an assassination-conspiracy case. They were able to make a deal with two prisoners - Louis Weichmann (John Surratt's college friend) and John Lloyd (the Surrattsville tenant) - who both agreed to talk in exchange for release from solitary confinement and freedom from prosecution.

Another compelling reason prompted the government to free Weichmann and Lloyd. At the time, a law prevented prosecutors from using an indicted person as a testifying witness. If Lloyd and Weichmann were charged in the conspiracy, they could *not* have testified against the other defendants.

Weichmann named individuals who had visited with Booth at the Surratt boardinghouse. Ultimately, eight alleged conspirators were rounded up:

- Samuel Arnold
- George A. Atzerodt
- David E. Herold
- Dr. Samuel A. Mudd
- Michael O'Laughlen
- Lewis Powell (a/k/a Lewis Payne)
- Mary E. Surratt

- [Edman Spangler](#)

Despite the government's best efforts to find him, John Surratt remained at-large for nineteen months. Authorities had his mother, though. On the 28th of April, eleven days after her arrest, Mrs. Surratt answered a key question:

Question: Did your son or Mr. Booth ever tell you that they had engaged in a plot to kill the President?

Answer: Never in the world if it was the last word I have ever to utter.

None of the conspirator-defendants were in the military, but decision-makers in the federal government - including the attorney general, [James Speed](#), and the new president, [Andrew Johnson](#) - decided to try them before a Military Commission. Such a procedure carries with it serious risks which defendants in a court of law never face.

Not only is the process far more harsh - allowing guilty verdicts even if jurors do not agree, and death sentences by a 2/3 majority vote - the U.S. Constitution *prohibits* the trial of American civilians in military courts. Even so, the federal government created a work-around, for the Lincoln conspiracy defendants, based on a legal opinion by James Speed.

The attorney general wrote that the War Department should have control over the trial because, among other reasons, Lincoln - as commander-in-chief of the military - was attacked before the war was fully over. As such, he asserted, the actions of the alleged conspirators constituted an act of war against the United States.

[Edward Bates](#), who had served as Lincoln's attorney general, disagreed with that opinion and vehemently objected to the process. So did [Gideon Welles](#) (Secretary of the Navy) and many others. Bates observed:

If the offenders are done to death by that tribunal, however truly guilty, they will pass for martyrs with half the world.

Although it is the defendants who face death or imprisonment at the end of a military trial, it is the prosecutors who have far more time to prepare. [Mary Surratt](#), and her fellow defendants, heard the charges against them three days before trial began.

Once lawyers were hired, they barely had time to learn the allegations, let alone prepare for trial.

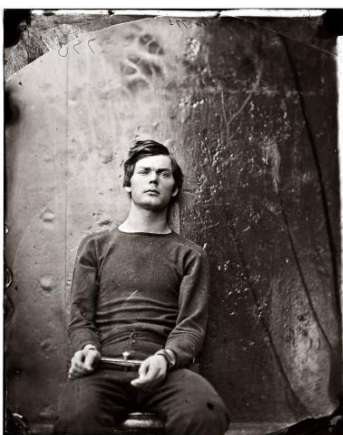
See [Alignments to State and Common Core standards for this story online at:](#)

<http://www.awesomestories.com/asset/AcademicAlignment/CONSPIRATORS-and-the-MILITARY-COMMISSION-Conspirator-Mary-Surratt>

See [Learning Tasks for this story online at:](#)

<http://www.awesomestories.com/asset/AcademicActivities/CONSPIRATORS-and-the-MILITARY-COMMISSION-Conspirator-Mary-Surratt>

Media Stream



Lewis Payne (Powell) - Arrested At the Surratt House

Image of Lewis Thornton Powell (Lewis Payne) online, courtesy Surratt House Museum.

View this asset at:

<http://www.awesomestories.com/asset/view/Lewis-Payne-Powell-Arrested-At-the-Surratt-House0>



James Speed - Attorney General

Photo of James Speed by Matthew Brady, online courtesy U.S. National Archives.

View this asset at: <http://www.awesomestories.com/asset/view/James-Speed-Attorney-General>

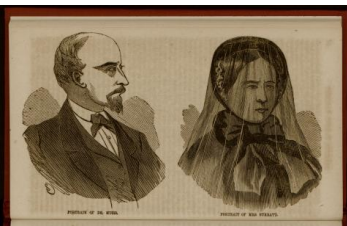


Andrew Johnson - 17th U.S. President

Engraving of Andrew Johnson by Philip & Solomons (Washington, D.C.), based on a photo by Alexander Gardner. Published in *Harper's Weekly* - May 13, 1865 issue - and online, courtesy Library of Congress.

View this asset at:

<http://www.awesomestories.com/asset/view/Andrew-Johnson-17th-U.S.-President0>



Mary Surratt and Dr. Mudd at the Trial

Image from the *Life and Extraordinary Adventures of John H. Surratt* - published in Philadelphia (1867) by Barclay & Co. - online, courtesy Library of Congress.

View this asset at:

<http://www.awesomestories.com/asset/view/Mary-Surratt-and-Dr.-Mudd-at-the-Trial>

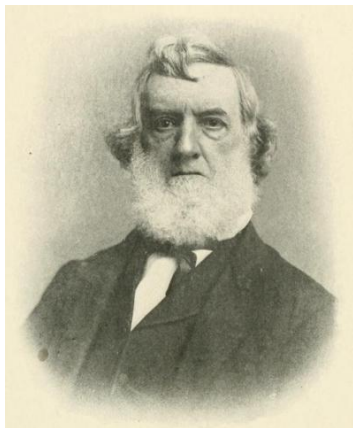


Edward Bates - Lincoln's Attorney General

Image of Edward Bates, Attorney General, online courtesy Library of Congress.

View this asset at:

<http://www.awesomestories.com/asset/view/Edward-Bates-Lincoln-s-Attorney-General>

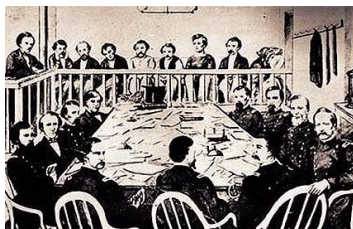


Gideon Welles - Secretary of the Navy

Image of Gideon Welles online, courtesy U.S. National Archives.

View this asset at:

<http://www.awesomestories.com/asset/view/Gideon-Welles-Secretary-of-the-Navy>



CONSPIRATORS and the MILITARY COMMISSION

View this asset at:

<http://www.awesomestories.com/asset/view/CONSPIRATORS-and-the-MILITARY-COMMISSION>