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Edward Jr.. Steers, ed. *The Trial: The Assassination of President Lincoln and the Trial of the Conspirators*. Lexington: University Press of Kentucky, 2003. cvi + 421 pp. \$55.00 (cloth), ISBN 978-0-8131-2277-9.

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The Best Transcript

As every American school child should know, on April 14, 1865 John Wilkes Booth killed President Abraham Lincoln at Ford's Theatre in Washington. Booth was the head of a conspiracy that targeted leaders of the government. Within two weeks, Booth was dead and eight of his alleged co-conspirators were caught. The eight—Samuel Arnold, George Atzerodt David Herold, Samuel Mudd, Michael O'Laughlen, Lewis Payne (or Lewis Powell), Edman (Edward) Spangler, and Mary Surratt—went on trial before a military court on May 10. By May 12 the tribunal was hearing testimony and continued to do so until late June. In less than two days of deliberation, the court of nine officers found all eight guilty of some aspect of the conspiracy. David Herold, Lewis Powell, George Atzerodt, and Mary Surratt were sentenced to death. On July 7, 1865, the four were hung. O'Laughlen died of yellow fever in prison, but the other three—Arnold, Spangler, and Mudd—were all pardoned before the end of Reconstruction.

There has been sustained interest in these events, which has spawned successive waves of works over the years, some sensational, others scholarly. The murder of the president and the trial before a military commission of those accused of conspiring to kill him have been the subjects of enduring speculations, claims, and studies. Today, interest in the Lincoln assassination and the trial of the conspirators has apparently risen to a new peak. The revival of the use of military commissions in the current war on terrorism has, in part, spurred this most recent wave of publication. Anyone interested in the events can turn to books published since the turn of

the new century, including Michael W. Kauffman's 2005 account of the assassin *American Brutus: John Wilkes Booth and the Lincoln Conspiracies*; James L. Swanson and Daniel R. Weinberg's *Lincoln's Assassins: Their Trial and Execution*, a slim 2001 volume reprinting documents, photographs, and other material culture items about the crime and trial; and Harold Holzer's *The President is Shot: The Assassination of Abraham Lincoln*, a 2004 account for young readers; and the volume under review.

Even given this crowded and much-ploughed field, *The Trial* is a useful and timely publication. The bulk of the volume is Ben Pitman's printed 1865 version of the trial proceedings. Pitman, brother of the deviser of the Pitman shorthand system, worked under federal government contract as a recorder of trials, which included the Indiana treason trial and the South Carolina Ku Klux Klan trials. The shorthand system and the use of multiple reporters made the Pitman transcript one of the fullest records of the testimony in any mid-nineteenth-century American trial. His trained reporters took notes on the proceedings, which are the basis for all transcripts of the Lincoln Conspirators' trial. The transcribed words were supplied to the *Washington National Intelligencer* and to telegraphers who sent them on to the *Philadelphia Daily Inquirer*. Both papers published trial proceedings daily. Within a year of the end of the trial, several different bound published transcripts were widely available. Of those, the Pitman version is accepted as the best in that it has the fewest transcription errors and is more complete. It is especially important that it contains the Attorney General's justifications for the use of a military

court for the trial, rather than a civilian one; the closing argument of Special Judge Advocate John A. Bingham; and a detailed table of contents and witness index. Pitman also arranged his work by defendant, instead of a day-by-day account, which makes it more accessible. By contrast, the microfilm edition of the trial available through the National Archives and Record Administration (M599) uses the *National Intelligencer* version, which goes day-by-day. That the Pitman version has been frequently reprinted, demonstrates its utility. Funk and Wagnalls brought out an edition in 1954, and in 1989 a leather bound, gilt-edged edition was done up by the Notable Trial Library.

This volume thus makes the best and most usable version of the trial record easily available. The record of the trial is presented in over four hundred pages of double-columned text. A reader can delve into the volume and find the detailed testimony and arguments presented for and against each defendant. Some parts of the volume speak directly to the oldest controversies spawned by the trial, like the guilt of Mary Surratt, the first woman executed by the Federal government. Here, in one thirty-page segment, the Pitman volume gathers together the evidence for and against her (pp. 113-143). Other parts of the Pitman record have modern resonance. For instance, one can read Reverdy Johnson arguing against the jurisdiction of the commission on behalf of Mary Surratt, invoking the constitutional bedrock idea of separation of powers (p. 256). He argued that the executive branch cannot confer the power to try acts on military commissions if Congress has not spoken.

But this is no mere reprint of the original, valuable as that might be. Also included are a listing of the trial exhibits not included in the Pitman transcript, a selection of illustrations of people and places significant to the story, and the statement of George Atzerodt found in the papers of his attorney, which gives support to the government's case against both Mary Surratt and Samuel Mudd. More importantly, Edward Steers Jr. has arranged for a number of assassination scholars (himself, Betty J. Ownsbey, Terry Alford, Laurie Verge, Joan L. Chaconas, Percy E. Martin, Thomas Reed Turner, and Burris Carnaban) to provide commentary on the Pitman transcript. These commentaries take the form of essays and comprise about one hundred pages. The eleven essays fall into two categories, those about the defendants and those about more general issues raised by the assassination and trial, although these lines are not rigid, as the biography essays discuss more general issues and some of the

general essays assess evidence against some of the defendants. As a whole, they provide a detailed guide to what the transcript holds. They all contain clear references to the pages of the Pitman transcript.

The defendant essays provide sketch biographies of each and review the evidence for and against the individuals' guilt. For reasons not made clear, Edman (Edward) Spangler, Mary Surratt, George Atzerodt, Lewis Payne (Lewis Powell), and Samuel Mudd all rate an essay. Samuel Arnold and Michael O'Laughlen are combined into one essay and David Herold is folded into a more general essay on "John Wilkes Booth, and Circumstances Attending the Assassination." In addition, John H. Surratt Jr., who was captured later and tried by a civil court (the jury did not reach a verdict and subsequent indictments were quashed on the grounds of exceeding the statute of limitations) gets his own essay. Those looking for martyrs among the defendants will be disappointed as the essays all lean toward guilt.

The general issue essays cover their respective topics well, which include the merits and demerits of using a military court to try the conspirators, the nature of general order of 1863 which created the War's military tribunals, the government's allegation that the assassination was part of a general conspiracy perpetrated by the Confederate government, and the basic facts of Booth's conspiracy and actions. For those interested in the legal arguments over the use of a military tribunal or the swirling claims of different conspiracy makers, the essays will give a good introduction to those debates, especially as they relate to the records of the trial.

As useful as this work is, it is important to note it is hampered by its focus on the Pitman record. Focus on the events of the trial, and what they illuminate about the crime, does not present the full story. Things are left out of this account, because they are not reflected in the record. For example the political calculations that went into using the military court to try the conspirators is part of the story that sees little exploration. Similarly, the effect of the trial on those involved (beyond the defendants) gets short shrift. Perhaps other readers will share my desire to know whether the trial had any influence on Lew Wallace's writing of *Ben-Hur* (Wallace was one of the nine officers of the court) and whether the trial had any effect on John A. Bingham's role in shaping the Fourteenth Amendment (Bingham was in practice the lead prosecutor). In short, this will not be, by far, the last word on the trial of the Lincoln conspirators.

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