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THE WHITE HOUSE
WASHINGTON

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summary~~

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THE WHITE HOUSE

WASHINGTON

July 31, 1979

MEMORANDUM FOR THE PRESIDENT

FROM: BOB LIPSHUTZ 

RE: The letter from you to Dr. Richard Mudd,
grandson of Dr. Samuel Mudd

I have been very pleased with the extensive and positive responses and press attention to this matter.

Attached is a copy of a letter from Senator Mathias along with a copy of the Congressional Record.

cc: Hamilton Jordan
Frank Moore

United States Senate

WASHINGTON, D.C. 20510

July 27, 1979

Mr. Robert J. Lipshutz
Counsel to the President
The White House
Washington, D. C. 20500

Dear Bob:

I talked with Dr. Richard Mudd within minutes of receiving your letter and the President's letter to him. He was delighted with the outcome of the effort and, of course, I am delighted too.

Thank you for masterminding this project. It may seem to some a little thing, but it is no small accomplishment to help a fine person achieve his lifelong ambition. And to help right a wrong is also no small thing.

I'm grateful for your support in this and expressed my gratitude on the floor of the Senate yesterday. I enclose a copy of my remarks for your information.

With best wishes,

Sincerely,



Charles McC. Mathias, Jr.
United States Senator

CM:pns
Enclosure

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. LEVIN. I would be happy to yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I am so proud of this freshman class that I want to not only associate myself with the remarks of the distinguished Senator from Arkansas but also want to claim membership in that freshman class.

Mr. LEVIN. We can arrange that.

Mr. ROBERT C. BYRD. It is an outstanding class of Senators, and I have already commented today earlier on the leadership that was provided by the distinguished Senator from Michigan (Mr. LEVIN) on this bill.

I take the floor again to commend him, and I am delighted to see other Senators recognizing the kind of ability and skill, competence and dedication demonstrated.

While the Senator is yielding to me, I want to also express my thanks to Senator LAXALT, Senator THURMOND, Senator HELMS, and other Senators who have been on the opposing side. They fought a good fight, they kept the faith, and they cooperated in connection with the agreement and with the leadership, and I am indebted to them.

Mr. President, I ask unanimous consent that when the Senator from Michigan yields the floor that there be a period for the transaction of routine morning business in which Senators may speak up to 15 minutes, with the period not extending beyond 45 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. I did want to thank my friend, the majority leader, for his remarks. His presence is supportive, whether he is here helping or back in his office; where we know he is here, and it is for all of us in the freshman class when we take these responsibilities, and we are indebted to him for the courtesies he has shown to us over these months.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business.

HIS NAME IS MUDD AND HE IS PROUD OF IT

Mr. MATHIAS. Mr. President, for 60 of his 79 years, Dr. Richard Mudd of Saginaw, Mich., has been struggling to clear the family name. He has been working to banish the expression "His name is Mudd" from the lexicon of infamies.

Yesterday, Dr. Mudd came within a hair's breadth of victory and, when I talked with him last night, he pronounced himself "very pleased indeed."

What pleased Dr. Mudd—and it pleases me too—was a letter from President Carter expressing his personal belief that Dr. Mudd's grandfather, Dr. Samuel A. Mudd, had been wronged by his contemporaries and by history. That Dr. Mudd, of course, was the Maryland physician, who set the leg John Wilkes Booth had broken in his jump from the

Presidential box to the stage at Ford's Theater after assassinating President Lincoln and who, for his trouble, was found guilty of involvement in the assassination conspiracy by a military commission at a trial that was as unfair as it was illegal.

"I want to express my personal opinion," the President wrote Dr. Mudd's grandson, "that the declarations made by President (Andrew) Johnson in pardoning Dr. Mudd substantially discredit the validity of the military commission's judgment." The President closed his letter with these magic words:

I am hopeful that these conclusions will be given widespread circulation which will restore dignity to your grandfather's name and clear the Mudd family name of any negative connotation or implied lack of honor.

Those are the words Dr. Mudd of Saginaw has, for so many years, longed to hear spoken by a President of the United States. I am very grateful to President Carter for finally giving him that satisfaction.

On August 18, 1977, Congressman PAUL SIMON and I sent a petition to President Carter stating our belief that Dr. Samuel Alexander Mudd was innocent of any involvement in the conspiracy to assassinate President Lincoln, and asking the President to use his authority as Commander in Chief to confirm Dr. Mudd's innocence by declaring his conviction null and void. Twenty-four of our colleagues joined with us in signing that petition and numerous other appeals have been made to the White House over the past several years.

In connection with our petition, the President was advised by the Justice Department that "all legal authority vested in the President to act in this case was exercised when President Andrew Johnson granted Dr. Mudd a full and unconditional pardon" and he was told that he "could not set aside the conviction." Considering this stricture on his options, the President has responded to the appeals presented to him generously and with compassion.

I am particularly grateful to the President for bringing the Mudd case to this happy conclusion because I have been pinch-hitting in the effort to clear Dr. Mudd's name for our late dear colleague and friend, Senator Philip Hart, who was a great personal friend of Dr. Richard Mudd and tireless in the defense of the Mudd family name. I inherited the Mudd case from him and when you bat in place of a giant like Phil Hart, you want a hit in the worst way. Thanks to President Carter's letter, we have got one that I think would please Phil Hart and satisfy his longtime desire to see justice done in the Mudd case.

I am sure my colleagues rejoice, as I do, that justice deferred is not justice denied and that they join me in congratulating Dr. Richard Mudd on this happy outcome to his lifelong struggle.

I want to thank the President for his eloquent letter to Dr. Mudd and I would also like to thank the President's Counsel, Robert J. Lipshutz, for his help and patience throughout the effort to achieve the objective which we celebrate today:

Restoring to Dr. Samuel Alexander Mudd his good name.

Mr. President, I ask unanimous consent that Mr. Lipshutz' letter to me transmitting the news of our success and President Carter's letter to Dr. Mudd be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, D.C., July 25, 1979.

HON. CHARLES MCC. MATHIAS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: As you now are aware, the President has acted upon the request to take action which would restore full dignity and respect to the name of Dr. Samuel Mudd. The very explicit letter which he has written to Dr. Richard Mudd is the very most that he is able to do under our laws, and I trust that the very sincere expressions in that letter meet fully with your approval.

Thank you very much for your patience and cooperation in helping to correct any remaining misperception about the honor of Dr. Samuel Mudd, as well as any reflection which this misperception might have had on the reputation of his descendants.

My warmest personal regards.

Sincerely yours,

ROBERT J. LIPSHUTZ,
Counsel to the President.

THE WHITE HOUSE,
Washington, D.C., July 24, 1979.

DR. RICHARD MUDD,
Saginaw, Mich.

TO DR. RICHARD MUDD: I am aware of your effort to clear the name of your grandfather, Dr. Samuel Alexander Mudd, who set the broken leg of President Lincoln's assassin, John Wilkes Booth, and who was himself convicted as a conspirator in the assassination. Your persistence in these efforts, extending over more than half a century, is a tribute to your sense of familial love and dedication and is a credit to the great principles upon which our nation was founded.

Your petition and the petitions submitted to me on behalf of your grandfather by numerous members of Congress, several state legislatures, historians and private citizens have been exhaustively considered by my staff over the past two years. Regrettably, I am advised that the findings of guilt and the sentence of the military commission that tried Dr. Mudd in 1865 are binding and conclusive judgments, and that there is no authority under law by which I, as President, could set aside his conviction. All legal authority vested in the President to act in this case was exercised when President Andrew Johnson granted Dr. Mudd a full and unconditional pardon on February 8, 1869.

Nevertheless, I want to express my personal opinion that the declarations made by President Johnson in pardoning Dr. Mudd substantially discredit the validity of the military commission's judgment.

While a pardon is considered a statement of forgiveness and not innocence, the Johnson pardon goes beyond a mere absolution of the crimes for which Dr. Mudd was convicted. The pardon states that Dr. Mudd's guilt was limited to aiding the escape of President Lincoln's assassins and did not involve any other participation or complicity in the assassination plot itself—the crime for which Dr. Mudd was actually convicted. But President Johnson went on to express his doubt concerning even Dr. Mudd's criminal guilt of aiding Lincoln's assassins in their escape by stating:

"... it is represented to me by intelligent

and respectable members of the medical profession that the circumstances of the surgical aid to the escaping of the assassin and 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;

"And . . . in other respects the evidence imputing such guilty sympathy or purpose of aid in defeat of justice, leaves room for uncertainty as to the true measure and nature of the complicity of the said Samuel A. Mudd in the attempted escape of said assassins . . ."

A careful reading of the information provided to me about this case led to my personal agreement with the findings of President Johnson. I am hopeful that these conclusions will be given widespread circulation which will restore dignity to your grandfather's name and clear the Mudd family name of any negative connotation or implied lack of honor.

Sincerely,

JIMMY CARTER.

THE PRESIDENT'S ENERGY MESSAGE

Mr. MATHIAS. Mr. President, last night in his televised press conference, President Carter forecast that the Senate would try "to gut" the windfall profits tax that he has proposed to finance his \$142 billion energy program. I am sorry the President made that remark. Talk of that sort is unwise.

But since the President is borrowing trouble for his energy program in the Senate, I think I can identify several areas where trouble may lie. Tonight, in a talk to the board of directors of the Maryland Chamber of Commerce, I plan to discuss weaknesses that I believe mar the President's energy proposals. I ask unanimous consent that the text I have prepared for that occasion be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATHIAS. Mr. President, although I have serious reservations about aspects of the President's energy plan, I would like now to pledge my cooperation to the President in seeing that his proposals receive the serious attention they deserve in the Senate. And I pledge my best efforts to insure that the Congress sends to the White House for the President's signature an energy program that will reconcile the priorities of the present with the promise of the future.

EXHIBIT 1

ENERGY: FOOL'S PARADISE REVISITED

Tonight I want to talk a little about our energy problem and about how President Carter proposes to attack it. Then I'd like to move on to questions and answers because this is an area where there are a lot of questions that need answering.

Usually I don't go around quoting myself but, to make a point, I'd like to begin by reading you the opening lines of a speech I made to the Frederick County Chamber of Commerce five and a half years ago. On January 24, 1974, in the winter of the Arab oil embargo, I warned that:

"These are not shortages which have sprung upon us suddenly or that will pass with the coming of spring. We must consider

all energy questions in the context of whether shortages are a temporary dislocation of a coming way of life."

I went on to make two predictions—one right and one wrong. My correct prediction was that the increasing world demand for oil would "bring higher prices and uncertain supply as the OPEC countries . . . will be in an increasingly strong position to dictate terms to the consuming nations."

My wrong prediction centered on an analogy I used to dramatize our energy dilemma.

"For the last 30 years," I said, "We have been on an energy binge and like anybody awakening with a hangover, there is the acutely painful moment when the window shade is raised and the bright sunlight pours in." Then I added: "We can never draw that shade again . . . we are on the wagon to stay."

But here I was wrong. Just as soon as the lines at the gas pumps disappeared and the embargo was lifted, we pulled the shade back down and resumed our interrupted binge. In the six wasted years since then, we have become more besotted with energy than ever.

Today new lines at the gas pumps warn us to sober up. And I hope we will take that warning seriously—it may be the last we get. But I am worried. I am worried because the President's interest in energy seems to be reactive; his concern seems to have been prompted largely by the concern of others, and I am afraid that, if the gas lines dissipate as they appear to be doing, his sense of urgency about energy independence may dissipate along with them.

When President Carter told the American people on April 20, 1977, that our diminishing energy resources and our inordinate energy consumption posed the greatest challenge we would face in the next decade, I applauded him. I was not among those who joked about his "moral equivalent of war."

But I told the President then that he would have to repeat and repeat his warnings until every voter and every taxpayer fully understood the subtle linkage between energy and modern civilization—that energy is not just an aspect of modern society—that it is society's lifeblood—that our economy . . . food, jobs, industry, income, homes, transportation . . . all of these and more depend on energy.

The President didn't do that. He said his energy piece and then put his cardigan sweater into mesh balls. He gave his time and attention elsewhere.

Only this month, when the American people were fed up with the gas lines and with the double-talk they were getting from the Department of Energy, was the President's attention finally brought back to focus squarely on the energy problem.

What brought the President back on track was a memo from a White House assistant which explained the energy crisis to him not in terms of how it affects our national security, but in terms of how it affects the political career of Jimmy Carter.

The President got the message and in response he launched what one columnist called a "bizarre exercise in the conduct of the presidency"—the Camp David domestic summit. Since then, in three speeches, the President has outlined an energy program with a \$142 billion price tag, and he has stage-managed a cabinet and White House staff purge.

But throughout this unfolding drama of born-again leadership, through all the sound and the fury, I have been straining to detect some sign that the hard energy decisions that must be made have been made. And I have been waiting for the President to level with the American people about just how tough it's really going to be to become energy independent and to call on them to make the very specific sacrifices they will surely have to make now and for many years to

come until alternate energy sources begin to produce.

In a letter to Thomas Jefferson, written just after the Revolution, John Adams observed that: "By the time the American revolution took place, a revolution had already taken place in the minds of the people."

I think we have the same sort of situation today. By the time the President got back from the Tokyo economic summit, the American people were way out in front on energy and the President is still scrambling to catch up. The American people are ready to conserve, to make sacrifices, to share discomforts, to do whatever is necessary to make this country energy-secure. But they want to know exactly what is necessary and why it is necessary. And they want the burdens, whatever they may be, to be shared equally and fairly.

As Columnist Hobart Rowen observed, ". . . this is where Carter failed to be presidential, casting himself only in the role of candidate for renomination. On the conservation side, his proposals are far from enough."

You don't move a people primed for sacrifice and ready for action by oration, you do it by example. And if you don't set any examples to underscore your rhetoric, pretty soon the people stop listening and slide back into their accustomed way of doing things. That is what happened in 1974 and in 1977 and we can't let it happen again.

But, as it says in the Bible: "Hope long deferred maketh the heart sick." And already I see signs that disturb me. This week, for example, when I drove to Baltimore, I was only one of two drivers on the road observing the 55-mile speed limit.

Reflect for a moment on this contrast. On returning from the Tokyo summit, where the United States, Japan and the major Western nations agreed to a common goal of a five percent reduction in oil consumption, President Carter cancelled a scheduled energy speech and went directly to Camp David, where he remained for 10 days without saying a word to the American people about anything.

West German Chancellor Helmut Schmidt, on the other hand, went to the Bundestag as soon as he returned and from there appealed to Germany's auto industry to introduce cars with lower fuel consumption. The automakers could accomplish the job in less than 18 months, he said, and "take a leading international position in the area."

That's the kind of talk that makes sense in an industrial society. But so far we have not heard a single word from the President about what our automakers can do to contribute to the solution of this problem. Not even when he was right here in Detroit, making an energy speech last week, did the President think to challenge the American auto industry the way Chancellor Schmidt challenged German automakers.

A 2-mile-a-gallon increase in the average fuel economy of the American auto fleet in 1985 would equal the amount of output of 10 synthetic fuel plants, I am told. And yet the President has left the auto industry entirely out of his program.

Here again the people are out in front. Since the gas lines began forming, Cadillac sales in Maryland are down 44.6 percent and Volkswagen sales are up 71.9 percent, according to the Motor Vehicle Administration. But, of course, gas lines aren't visible from the windows of Air Force One.

The shift to energy-efficient cars is absolutely inevitable. What is not inevitable, and what we should avoid at all cost, is the shift to energy-efficient foreign cars, because that means American jobs. But, if Detroit isn't persuaded to come up with viable alternatives, that shift too will be inevitable.

Here's another sure thing: the automaker who comes up first with a car that gets 50 to 75 miles a gallon will corner the

Name of Mudd — Sullied in Lincoln Slaying — Gets a Cleaning

By IVER PETERSON

Special to The New York Times

SAGINAW, Mich., July 26 — The name of the doctor who helped Abraham Lincoln's killer escape is still Mudd, but thanks to a determined descendant, it is at least a little cleaner today.

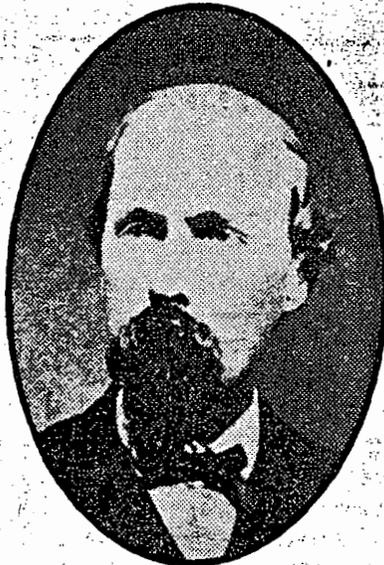
Dr. Richard Mudd, grandson of Dr. Samuel Alexander Mudd, received a telegram from President Carter this morning saying that the President felt the late doctor got a raw deal when he was convicted of helping John Wilkes Booth conspire to kill President Lincoln in 1865.

About time, says the current Dr. Mudd, a retired Chevrolet division physician who has spent the last 45 years trying to clear the name of his ill-fated ancestor.

Right to Treat Patients

Dr. Sam Mudd was the Maryland country doctor who set Booth's fractured leg, broken after the assassin jumped from the Presidential box at Ford's Theater after firing point-blank at the President's head on April 14, 1865. Maybe Dr. Mudd had recognized Booth as the man he had found a horse for a few weeks earlier; maybe he thought the broken leg was a little suspicious; maybe, as a ruined slave owner himself, Dr. Sam Mudd was not an enthusiastic supporter of Abolition. But none of these were grounds for sending his grandfather to jail, Dr. Richard Mudd believed when he began his quest.

"I am the only Dr. Mudd descendant of my grandfather," Dr. Mudd



Dr. Samuel Alexander Mudd

said today at his comfortable old home on Hoyt Avenue. "I have always felt that my grandfather had the same right as any doctor to treat a man who comes to him with a broken leg without being sentenced to life in jail for it."

Dr. Mudd speaks softly, in a voice that sounds younger than his 78 years, but it is also an earnest voice. "When I saw the straitjacket they put him in for his trial, the blindfold over his eyes and the cotton stuffed in

his ears, the ball and chain on his feet, I felt very bitter. I felt the Government did the wrong thing, and I wanted to do something about it."

The long telegram from Washington that came this morning did not give him everything he wanted, but at least it ended his quest. In it, President Carter expressed regret that the guilty verdict from the military commission that tried and condemned Dr. Mudd's grandfather could not be set aside on the mere word of a President.

But instead, President Carter endorsed the words of a full pardon for Dr. Sam Mudd from President Andrew Johnson in 1869. President Andrew Johnson, the Vice President who succeeded Lincoln, said the trial's evidence "leaves room for uncertainty" about the doctor's guilt and that the help a physician gives anyone, even a criminal, deserves "a lenient construction" from anyone asking questions.

Disclosed to a Fellow Mudd

President Carter added that he hoped his belief in Dr. Sam Mudd's innocence would get "widespread circulation," and then he made sure it would do just that by disclosing the story to another Mudd, Roger, the CBS television newscaster who replaces Walter Cronkite when he goes sailing off Martha's Vineyard.

Mr. Mudd, the newscaster, told his audience that the partial clearing of his distant relative's name "will sure help back home."

Dr. Richard Mudd also feels pretty

good about it. "It's the best we can do," he said. "I'm almost 79 years old. I've got 35 grandchildren — let them carry on if they want to. I'm satisfied."

Dr. Sam Mudd did much to clean up his own name by performing heroic duties in putting down a yellow fever epidemic at Fort Jefferson, the Federal prison in the Florida Keys where he was kept for four years until his release.

But he remained bitter about his treatment, and so did his son, Dr. Richard Mudd's father. "My father never mentioned it at all," the grandson said today. "Neither did Dr. Sam when he got out of prison. It ruined the family and it left a lot of bitterness."

Wrote Family History

In his quest for absolution, Dr. Richard Mudd had written several small volumes about the night of April 14, 1864, and a huge history of his family, listing 388 Mudd descendants — although he says the 389th was born last week in California.

He lists himself as a lecturer on his Internal Revenue Service form, so that he can deduct the costs of traveling across the country, lecturing and arguing on his grandfather's behalf to anyone who would listen. Seven state Legislatures did listen, and petitioned the White House with resolutions for Dr. Sam's exoneration.

There would have been eight state house petitions if some back-bencher in Kentucky had not killed it by tacking on his own amendment attacking the Panama Canal Treaty.

114 Years Later, Dr. Mudd Cleared in Lincoln Death

SAGINAW, Mich., July 26 (AP)—It took 114 years, six presidents and several generations, but the besmirched Mudd family name has finally been given an official vote of confidence.

President Carter issued a letter yesterday absolving Dr. Samuel Mudd from any role in the assassination of President Abraham Lincoln.

That made the doctor's 79-year-old grandson, Dr. Richard Mudd of Saginaw, a very happy man. His grandfather's troubles had inspired the phrase: "His name is mud."

The night of April 14, 1865, assassin John Wilkes Booth broke his leg in a leap from the Ford Theater box where he fired the shot that killed Lincoln.

Booth made his way to Mudd's home in Maryland, about 30 miles south of Washington, where the doctor set his leg. It wasn't until the doctor went to town to get his mail that he learned of the assassination, the grandson said.

"He reported to soldiers that two suspicious men were at his house the night before, though," Richard Mudd added. Union soldiers found a

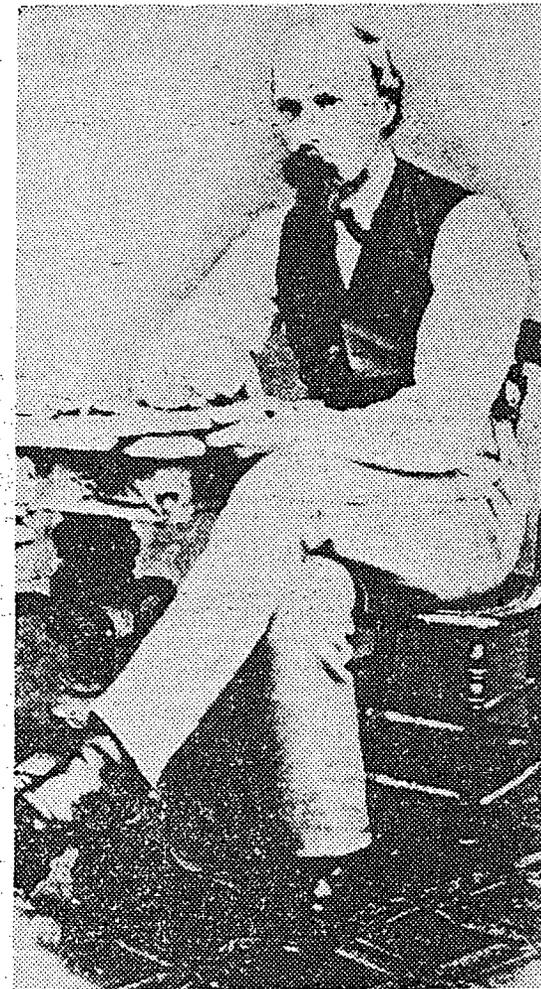
boot at the home with Booth's name in it, and Samuel Mudd, a Confederate sympathizer, was convicted as an accomplice.

He was sentenced to life in prison, and served four years before President Andrew Johnson granted a pardon and ordered his release after the doctor aided prisoners during a yellow fever outbreak.

"He was never exonerated, and really, he isn't yet. All we can get is a personal declaration that President Carter considers him innocent, but that's enough for me," said Richard Mudd. "I'm so relieved I'm tierd. I've worked on this for 60 years."

He said he will not receive a copy of the letter until Thursday, although CBS news correspondent Roger Mudd, a distant cousin, read him its contents Wednesday night.

"We Mudds have been in this country since 1665. I myself have nine children (one deceased), 35 grandchildren and three great-grandchildren, so you see I had good reason to battle this thing out," the Saginaw doctor said.



Dr. Mudd, who set Booth's broken leg, has been declared innocent of being assassin's accomplice.