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Book Review of Lizzie Borden on Trial: Murder, Ethnicity, and Gender

Linda K. Tesar

William & Mary Law School, lktesar@wm.edu

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Conforti, Joseph A. *Lizzie Borden on Trial: Murder, Ethnicity, and Gender*. Lawrence, KS: University Press of Kansas, 2015. xii, 241p. Landmark Law Cases & American Society Series. Paperback ISBN: 978-0-7006-2233-7. \$19.95.

Lizzie Borden took an axe and gave her mother 40 whacks. When she saw what she had done, she gave her father 41.

Few crimes in American history have captured public imagination as firmly and as relentlessly as the murders of Andrew and Abby Borden in Fall River, Massachusetts on August 4, 1892. Testimony transcripts, newspaper articles, books, films and even popular music all join in the panoply of witness and commentary on the brutal crimes. Unfortunately, until recently scholars avoided devoting more than article-length examinations to the subject. Full, monographic treatments tended toward the sensational and conspiratorial. The editors of University of Kansas Press's *Notable Trials Series* determined to address this lack of scholarly attention by inviting Joseph A. Conforti, Fall River native and Distinguished Professor Emeritus of American and New England Studies at the University of Southern Maine, to tackle the subject.

From the perspective of both the author and the editors, the Lizzie Borden trial, while neither altering nor challenging the law, serves as a window to late nineteenth-century New England. Conforti argues that multiple factors played parts in the trial and acquittal of Lizzie Borden. Obviously the criminal and legal issues surrounding the crime had an impact. But anyone trying to understand the case and its outcome must also consider the social and economic setting of Fall River, as well as nineteenth-century conceptions of womanhood and class.

Conforti begins with a short history of the Borden family and the town of Fall River. The family's heritage traces back to the Puritans' 1630 "Great Migration" from England to Massachusetts. Half of Fall River's founding families were Bordens, and the families prospered as Fall River developed and grew. Bordens also formed the vanguard of men who recognized and took advantage of the power of the region's waterways for industrial purposes. Over time, the Bordens and their cousins formed more than forty corporations and developed nearly a hundred mills in and about Fall River. The invention of the steam engine added to the industrialization of the town and to the substantial wealth of the Borden clan. By the latter half of the nineteenth-century, the Borden name was recognizable throughout the Northeast.

Fall River itself became known as “Spindle City” in recognition of its national prominence as the production site for cotton cloth. This production relied upon a steady influx of cheap immigrant labor, and the growing numbers of immigrants touched off racial and ethnic discord with the established, wealthier Yankee natives. Leading Fall River families lived on “The Hill,” geographically above the mills and the immigrants who worked within them. Lizzie’s particular branch of the family, while respectable, was not among the most exclusive ones, nor did she reside in the best part of town. Nevertheless, as events unfolded her wealthier cousins rallied around her, unwilling “to concede that one of their own, a genteel Christian woman, wielded a hatchet to commit the horrendous act of parricide.”(p. 6)

Victorian notions of genteel womanhood also played a role in Lizzie Borden’s case. While the new ethnic groups expanded through new immigrants and a healthy birth rate, New England Yankee women produced fewer children than before. This group of women no longer needed to work inside or outside their homes. Their lack of personal activity, coupled with the declining birthrate, led to the perception that upper class Yankee women were fragile or delicate. This view of the delicate woman had a direct impact on perceptions of Lizzie Borden’s guilt. Was she physically capable of wielding the hatchet? As a testament to the ethnic and societal prejudices of the time, Lizzie’s lawyers and supporters continued to argue that the crime had to have been committed by a large, male immigrant rather than a petite, delicate woman.

After setting the historical scene, Conforti next uses the wealth of available resources to paint a picture of the members of the Borden household. The victims, Andrew Borden and his second wife, Abby, had been married for twenty-seven years at the time of the murders. A self-made man, Andrew Borden lived a mostly frugal life despite having an estate worth well over \$300,000 -- \$8 to 10 million today.(p. 25) He could be unforgiving, unrepentant and hard, but also had moments of generosity. By contrast, many who knew her described Abby Gray Borden as warm and generous. However, despite nearly three decades living with Andrew’s daughters, Emma and Lizzie, Abby’s relationship with them was strained.

Emma and Lizzie Borden, at the ages of 41 and 32 respectively, were both beyond the normal age for matrimony in 1890s New England. Emma may, in fact, have chosen “spinsterhood” to continue to fulfill a promise to her dying mother that she would take care of Lizzie. Of the two, Lizzie developed the more dominant disposition, and she was described as occasionally sullen. Their difficulties with

their stepmother probably resulted from concerns about her perceived influence over Andrew in financial matters. Enough tension existed between the family members that meals were infrequently shared, and bedrooms and belongings were kept under lock and key.

Moving from family dynamics, the author carefully works through the details of the murders, starting with the household's first stirrings on the fateful day. Emma Borden was out of town. Andrew Borden and houseguest John Morse, brother to the first Mrs. Borden, left separately. The maid, Bridget Sullivan, went outside to wash windows after breakfast. Abby Borden climbed the stairs to attend to the guest bedroom sometime before 9:30. Within the next hour, she would be murdered by nineteen strokes of a hatchet. Lizzie's whereabouts during the first murder were never conclusively established. She claimed to have been downstairs where she was oblivious to the attack upstairs.

Andrew Borden returned home around 10:45. Bridget unlocked the front door to let him into the house. Ten minutes later, she retired to her room to rest. At 11:10, Lizzie "discovered" Andrew's body and alerted Bridget. He had been murdered by ten hatchet blows to the head while resting on the sofa in the sitting room.

Andrew's death leads to the mystery in the murders. Lizzie would have had twelve to thirteen minutes to kill her father, clean or change her clothing, clean and hide the hatchet, and return to the sitting room to discover the body before she called Bridget at 11:10. This tight timing, the main argument of Lizzie's defenders, would challenge the government's case and spawn multiple theories regarding the "real" murderer.

After the discovery of Andrew's body, Lizzie sent Bridget for a doctor. When she returned, Bridget and a neighbor went upstairs and discovered Abby Borden's body. The coroner arrived by 11:45, and the police within minutes of that. Despite a sizeable presence at the home, the police neglected to rope off the crime scenes and areas of potential evidence such as the barn and backyard. Numerous people walked through the area, some tracking blood through the house. Regardless of police bungling of the crime scenes and evidence, Lizzie Borden was a suspect by the end of the first day of the investigation.

On the day of the murders, the police conducted multiple interviews of Lizzie, other members of the household, and nearby neighbors and shopkeepers. Although flawed, their investigation would

uncover inconsistencies, lies, plausible motives, destruction of potential evidence and thwarted poison purchases. Strong circumstantial evidence pointed to Lizzie's guilt. The police never found another viable suspect.

The district attorney began an inquest on the Tuesday after the murders. On Thursday, only a week after the discovery of the bodies, the inquest ended and Lizzie was arrested. After the arrest, multiple criminal proceedings followed, including a preliminary hearing and a grand jury investigation within four months of the crimes. It would take another six months before the final act of the drama, the Superior Court trial for double murder that began on June 6, 1893.

Conforti's discussion of the trial weaves together the earlier threads established regarding the social and cultural history of the time, ideas of Victorian womanhood, and the particular dynamics of Lizzie Borden's family. The horrific nature of the crimes made the heightened nature of press and public attention inevitable. The prominence of the Borden family, the camps of Lizzie's supporters and detractors – divided along social, ethnic and sometimes gender lines – and Lizzie's respectable, feminine demeanor throughout the proceedings all contributed to create the nation's first real celebrity murder trial.

To these elements, Conforti adds a critical assessment of the trial itself. Painstaking research into the trial and the previous legal proceedings enables the author to highlight testimony changes, note critical inconsistencies, and debunk some long-standing perceptions regarding the case. He also notes two critical instances in which the court favored the defendant. First, evidentiary rulings by the three-member judicial panel so favored Lizzie that eminent scholar John Wigmore would strongly chastise the court in an article penned shortly after the trial. Second, in his charge to the jury, Justice Justin Dewey strayed far beyond judicial limits, injected personal opinion, and succeeded in undermining the prosecution's case. In the end, the prosecution hoped for a hung jury. Instead, the panel reached a decision to acquit Lizzie Borden within ten minutes.

Conforti concludes his narrative with a quick summation of Borden's life after the trial. Lizzie and Emma Borden split their father's fortune and moved to the wealthiest part of Fall River. The sisters parted irrevocably ten years later, Emma still convinced of her younger sibling's innocence. They died within nine days of each other in June 1927.

To finish his piece, Conforti follows the epilogue with a brief bibliographic essay in which he addresses some of the strengths and weaknesses of previous efforts. Unsurprisingly, multiple secondary sources examine the case, complemented by an abundance of primary material from the four legal proceedings, police interviews and notes.

While he never states definitively that Lizzie Borden committed the murders of her father and stepmother, Conforti clearly outlines her probable guilt. With his thoughtful discussion of the trial's time and place, his explanation of the attendant gender and ethnic issues, and his systematic analysis of the primary materials, Conforti strongly suggests there can be no other conclusion. His is a compelling, highly credible account of this most infamous murder trial.

Linda K. Tesar
Head of Technical Services & Special Collections
Wolf Law Library, College of William & Mary