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The history of Lizzie Borden: Burying the axe

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The History of Lizzie Borden:

Burying the Axe

An Honors College Project Presented to

the Faculty of the Undergraduate

College of Arts and Letters

James Madison University

by Christian Andrew Ford

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Accepted by the faculty of the Department of History, James Madison University, in partial fulfillment of the requirements for the Honors College

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Preface

One hundred twenty-seven years after the trial of Lizzie Borden scholarship is still being produced on the Borden murders. For general audience's the main focus has been on the unsolved nature of the crime: was Lizzie Borden truly the killer or was she indeed innocent? The long list of peculiarities around the case has allowed for endless theories that will probably never be proven or disproven. Yet, what has driven me to write about the case and murders is not the question of who did it, but the window into the social tensions of the Gilded Age Lizzie Borden provides. The case involves tensions of race, class, gender, immigration, and religion. The social tensions that can be found around America in the late 19th century all make their mark in this sensational series of events.

To write this thesis I have relied heavily on the work of Dr. Joseph Confetti and his monograph *Lizzie Borden on Trial: Murder, Ethnicity, and Gender*. While there has been book after book written on the Borden trials, Confetti is the sole historian to write a full length book on the events. His doctoral credentials give his work the most creditability on the Borden case and has been the most reliable source to fill in gaps on the timeline of events. Confetti's book takes a close look at the role of race and gender shaping the investigation and trial; his work has heavily influenced my thinking. The present thesis develops from Confetti's work and goes a step further to argue the case enthralled Americans for both its grizzly nature and the subconscious realization that the trial of Lizzie Borden was the accumulation of Gilded Age tension into a battle for what kind of America would be dominant.

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I would also like to thank my readers, Dr. Andrew Witmer and Dr. Neel Amin. Their time spent reviewing and editing my work led to a stronger thesis than before. I am forever grateful for their thoughtful comments and suggestions.

Abstract

In 1892, a wealthy Massachusetts couple, Andrew and Abby Borden, were hacked to death during broad daylight in the comfort of their own home. A few weeks later Lizzie Borden, Andrew's daughter from his first marriage, was arrested for double homicide. Newspapers across the country took hold of the story from the very first day; a wealthy, white, woman being accused of murder was no ordinary affair. For the next year the nation was gripped to the news as the case revealed an everlasting list of strange characters and showed the dark underbelly of the small industrial city of Fall River, Massachusetts. And to climax the dramatic events, Lizzie was found not guilty. Lizzie Borden's trial became a battle for what kind of America would dominate in an age of deep-seated tensions.

Chapter 1

Turmoil in Society and the Home

The setting for the incidents that took place on August 4, 1892, that forever changed the life of Lizzie Borden, was what Mark Twain coined as “The Gilded Age.” The later half of the 19th century was a time marked by rapid industrialization and economic growth. The rise of machines and factories were producing staggering amounts of goods never before seen in such fast rates. Technological innovations were springing out in staggering numbers, with the telegraph, the typewriter, the telephone, and the light bulb altering the way of life. America was changing rapidly; people were moving to the cities, the emerging economic hubs. Businesses were increasingly coming under the control of a handful of powerful men, such as: Andrew Carnegie, John D. Rockefeller, and J. P. Morgan. Yet, while prosperity marked the Gilded Age for the elites who capitalized on specific sectors of the economy, the success did not always transfer to the general worker. The Gilded Age became one of societal tensions between business owners and workers, developing an enigma of progress and poverty according to the prolific 19th century economist Henry George.¹

Social issues were ever present in late 19th century as the old America was receding, giving way to a new and different industrial order. People were moving away from the farms to new jobs in the city; the America of yeoman farmers that Thomas Jefferson envisioned was

¹ Richard White, *The Republic for Which It Stands: The United States during Reconstruction and the Gilded Age, 1865-1896* (Oxford: Oxford University Press, 2017), 136; Mark Wahlgren Summers, *The Gilded Age, or, The Hazard of New Functions* (London: Pearson, 1997), 5-7.

crumbling to an America of factory workers. These industrial workers became a section of America that did not see “the machine” as a symbol of progress but a threat to the traditional way of life. For many who did abandon the farms for the factory, life was not great. Pay was low, hours were long, and conditions were less than ideal. The work conditions of many laborers lead to tensions between employees and owners that often ended dramatically. The 1877 railroad strike is an example of these tensions. Railroad workers in West Virginia went on strike in protest of low wages, which sparked similar worker resistances among rail workers across the U.S. Railroad leaders sought support from the U.S. government, which responded with troops. The strike finally ended with a bloody assault on the workers, leaving scores dead and considerable railroad property destroyed.²

Following the Civil War immigration to the United States took a dramatic turn. During the antebellum years, immigrants to America mostly emigrated from Northern European countries such as Great Britain, Ireland and the German states. These migrants were generally Protestants and skilled workers, with the exception of the Irish, melding into society easier than their successors because they more closely resembled the native born population. This immigration began to change post-Civil War; the rate at which America’s ports were flooded with foreigners was staggering. Large numbers of “old” Northern European immigrants continued to enter the United States, but even larger numbers of “new” immigrants from Eastern and Southern Europe passed through the borders.³

² White, *The Republic for Which It Stands*, 215.

³ White, *The Republic for Which It Stands*, 6, 193-195, 872.

Europe's population had drastically increased in the mid- to later-half of the 19th century, resulting in a lack of available jobs and space; America offered the promise of endless western borders and the hope of economic opportunity. Many of these "new immigrants" did not intend to stay, but instead believed they could build their wealth and then return to their home countries. Others came to escape religious persecution or to avoid the growing number of countries demanding conscription in their armed forces. In addition, the new steam powered boat that was both relatively fast and inexpensive made it easier and more convenient to cross the Atlantic Ocean to America. The immigrants were optimistic the United States could offer them a better life; however, Americans were startled that the newcomers spoke different languages, practiced different religions, and were mostly unskilled laborers, which created a wave of anxiety through the country.⁴

The notable differences between the "new immigrants" and the native born Americans created tensions between the two groups. One major source of conflict was religion. Over six million immigrants with foreign faiths came to the United States between 1870 and 1890. They were Orthodox Christians, Catholics, and Jews, they practiced religions that previously were only followed by a small minority of "old immigrants." Americans believed their Protestant faiths were now under threat. In addition, the 1890 census showed American birth rates were falling. With an ever growing population of immigrants and the number of Americans in decline, Americans feared they would be unable to fight against the foreign horde. And while the number alone was enough to cause discord, many Americans believed these immigrants were not Europe's best. The immigrants of this generation were largely unskilled laborers who fled small

⁴ White, *The Republic for Which It Stands*, 193-195.

farms or worked in factories representing Europe's vice-filled industrialization, which America did not want to replicate.⁵

The "old" and "new" immigrant populations were present in Fall River, Massachusetts in the late 19th century. The city was comprised of a large Irish population flowing down from Boston and a substantial Portuguese community coming from Providence, Rhode Island. Both groups worked as laborers in the city's textile mills, and while both groups shared an identity as foreigners, the Borden murders would reveal a deep strife between the two populations. In order to fully understand the social culture of the city, an examination of how both groups came to Fall River is important.⁶

The Irish population in Massachusetts was rooted in deep-seated political turmoil. In the 1600's, England invaded Ireland and confiscated land from the Irish natives and gave the lands to the English warriors as payment for their service. The Irish were allowed to work the fields but had to pay rent to the land-owning English, which over time created a destitute population. Many Irish fled the country to find work in English cities, but as the British population rose, the government cracked down on foreigners who were taking jobs away from native citizens. These Irish immigrants were sent back to Ireland. The prices on crops had dramatically fallen, Irish farmers were not able to pay rent to the elite, and these poverty-stricken natives were evicted from the farms. Adding to the misery, in 1845 the potato crop failed because of a blight, and famine struck Ireland. With the beginning of steam-powered ships, many Irish people left for

⁵ White, *The Republic for Which It Stands*, 193-195; John Kason, *Civilizing the Machine* (New York City: Hill and Wang, 1999), 53-107.

⁶ Oscar Handlin, *Boston Immigrants: 1790-1880* (New York City: Scribner, 1972), 35; Raul d'Eça, "The Portuguese in the United States," *Social Science* 14, no. 4 (1939): 365-369.

America, and many landed in Boston, which was not a desirable city for immigrants due to a shortage of factory jobs, artisan work, and land. Fall River became home to a large Irish population, due to its proximity to Boston; it cost little to get there, and the town's mills needed workers. While this first wave in the 1840's represented the "old" Northern European immigrant, the Irish population continued to swell into the late 1890's as Ireland experienced multiple failed crops over the years. The Irish population of Fall River continued to grow in the late 19th century.⁷

The Portuguese of Fall River represented the "new immigrant" to America. Their arrival began in the late 19th century, with large populations settling in Providence. With Fall River being just under twenty miles from Providence, a significant number of Portuguese moved to the coastal Massachusetts mill town looking for work, similar to the Irish coming from Boston. Yet, these "new" immigrants were different to the Irish in a way that put them on the bottom rung of the social hierarchy. For one, they did not speak English as a first language, unlike the Irish. Second, they were not familiar with America's democratic system of government, as kings and queens had ruled Portugal for many years. The Irish were at least familiar with democracy due to their close proximity and relations with Britain, even though they did not take part in it.⁸

While there was much that separated these two groups, for the most part they worked the same jobs. Immigrants ran Fall River's many mills, producing a multiplicity of textiles for the American owners. The only opportunity for work outside of mill was for jobs in the police force, but Irish men dominated this occupation; another example of the Irish being above the

⁷ Handlin, *Boston Immigrants*, 90; Kason, *Civilizing the Machine*, 60-74.

⁸ d'Eça, "The Portuguese in the United States," 365-369.

Portuguese. Despite this one source of other work, the Irish and Portuguese populated the mills and did not discriminate by gender or age. Entire immigrant families worked: children, women, and men. Not until the twentieth century did federal laws outlaw child labor. State laws in Massachusetts regarding child and women labor in 1890 were being quasi-enforced, with Fall River business owners notably evading work restrictions. It is worthy of attention to note that many immigrant women were working in these mills, this would play a stark contrast to Lizzie Borden, the American woman who never worked a job a day in her life.⁹

While the immigrant woman of Fall River worked long and hard hours in the mills, the story was quite different for the American woman living in the same town. Before the Irish came in large numbers, American women populated many New England mills' workforce as the men worked the fields. Clashes between the women and management led to mill owners hiring immigrants who could more easily be exploited and were available in large numbers, and often worked for smaller wages than women. Throughout the later half of the 19th century a smaller number of American women worked in mills, but it would be for a short time of a year or two and would typically happen before marriage. Even this trend diminished over time as it became more widespread to think of the woman's domain as that of the house. Men and women lived in different spheres of life: men worked outside the home and women worked within the home. Yet, the end of the 1800s saw the beginning of the Progressive Era where women would push for a great role in society through social advocacy. Women groups and clubs pushed for temperance

⁹ Sarah Scovill Whittelsey and Arthur Twining Hadley, "Massachusetts Labor Legislation, An Historical and Critical Study," *The Annals of the American Academy of Political and Social Science* 17 (1901): 1-15; Handlin, *Boston Immigrants*, 90; Kason, *Civilizing the Machine*, 60-74.

and suffrage on the state and federal levels. Many Protestant women joined church groups trying to better their own local communities.¹⁰

While these middle and upper class women tried to better society, the Gilded Age was not a period of mass crime. There were worries about poor immigrants being vagabonds and criminals, but these were more imagined than real. The concern over immigration led to criticism of foreigners in every aspect whether imagined or not. The public's most upfront confrontation with criminality was stories of the western cowboy or bandit. But these criminals were more glorified by dime novels and tall tales than actual societal threats. Jesse James was seen as a Robin Hood hero rather than a murderer. Perhaps the low crime rates of the time made the Borden murders into the media sensation that it was. In a time when crime was insignificant, the accusation of a white Protestant daughter hacking her father and step-mother to death with a hatchet was not just shocking but inconceivable.¹¹

Before the murders, Fall River, Massachusetts was a typical late 19th century industrial community. The foundation of the town's economic prosperity was its location along the Quequechan River. The waterway is relatively short (less than two miles long), but the river ends in a large water fall, where Fall River gets its name. The short distance combined with the falls makes for a fast flowing waterway. The town's inhabitants made use of the current as early as the late 1700s setting up textile mills along its banks harnessing the power of the river. The Quequechan was only part of the geographic advantage of Fall River; the town's western border

¹⁰ Joseph Conforti, *Lizzie Borden on Trial: Murder, Ethnicity, and Gender* (Lawrence, KS: University of Kansas Press, 2015) 4-5, 15; Kason, *Civilizing the Machine*, 76-80.

¹¹ White, *The Republic for Which it Stands*, 6; Alan Trachtenberg, *The Incorporation of America: Culture and Society in the Gilded Age* (New York City: Hill and Wang, 2007) 13.

is Mt. Hope Bay leading into the Atlantic Ocean. Being directly on the coast meant sea traders and merchants did business in the community. Easy access to the ocean and a powerful river gave Fall River an advantage for economic growth when compared to other New England industrial centers.¹²



Figure 1: Map of Fall River in 1877.¹³

The Borden and the Durfee families dominated the mills along the river. The two families consolidated their power through intermarriages creating a monopoly of Fall River mills. Their fortunes were solidified with the integration of the steam engine. The Quequechan had become completely surrounded with mills, but the steam engine meant mills no longer needed to be on a flowing river. Mills were set up along the coast of Mt. Hope Bay and the Taunton River, which flows into the bay a short distance from Fall River. Because Fall River is on the coast, boats

¹² Conforti, *Lizzie Borden on Trial*, 4-5.

¹³ “City of Fall River, Mass. 1877, Boston Library, accessed April, 4, 2019, <https://collections.leventhalmap.org/search/commonwealth:wd376108f>.

could easily deliver coal to the town to power the steam engines giving them an advantage over inland mills.¹⁴

Fall River became one of the largest producers of gray cloth in the United States. In 1865 the town had 265,328 spindles and by 1875 there was 1,269,048, an increase of over one million units. The number of spindles in the entire United States was just above nine million; Fall River made up a significant portion of the cloth economy with some estimates claiming it produced half of the U.S. market's printed cloth. The capital of all the Fall River mills in 1876 was over \$14.5 million and the Borden family was at the center of this prosperity.¹⁵

The wealthy and powerful families of Fall River physically isolated themselves and their homes from the rest of the city. Most of the affluent citizens lived in a part of the city called the "Hill." Fall River is made up of many rolling knolls and the tallest one housed the cities' elites. The "Hill" was a location where the upper-class could separate themselves from the bustling industry they owned. These elites did not live next to the mills as their workers, but locating on the "Hill" created a barrier and separation between them and the immigrants. Additionally, the "Hill" provided sweeping views of the ocean, an escape from the eyesore of industry. The most popular location was Rock Street, which was populated with colonial mansions and Protestant churches. The "Hill" was a utopia to the elites; it provided spectacular views, was absent of immigrants, housed acceptable denominations, and was a symbol of wealth. Yet, one notable family chose not to live on the "Hill," selecting the cheaper land closer to the heart of the city.¹⁶

¹⁴ Conforti, *Lizzie Borden on Trial*, 7-9.

¹⁵ Henry H. Earl, *A Centennial History of Fall River* (New York City: Atlantic Publishing and Engraving Company, 1877), 8.

¹⁶ Conforti, *Lizzie Borden on Trial*, 8-11.

The Bordens lived in a house significantly below their means. Second Street was a bustling road with a mix of residential homes and businesses. Close to South Main Street, Andrew Borden, the father of the family, was in near proximity to his business ventures; a stark difference to the residents of the “Hill” who tried to distance themselves from work. The people who lived and worked around South Main Street showed the true diversity of Fall River: An Irish doctor lived next door, the daughter of a former mayor lived a few houses down, and a Chinese laundry was on the street. Second Street was a bustling road, with many pedestrians who exited and entered the houses and shops.¹⁷

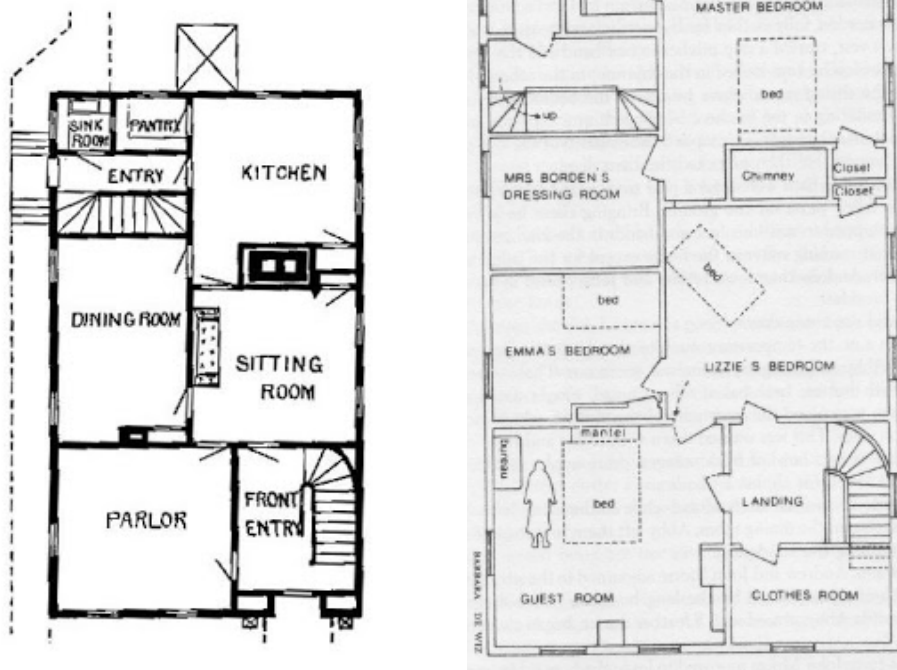


Figure 2: On the Left is the floor plan of the first floor of the Borden house and on the right is the floor plan for the second floor.¹⁸

¹⁷ Conforti, *Lizzie Borden on Trial*, 44-47.

¹⁸ “Lizzie Borden: Did She or Didn't She?,” *Always on Watch*, accessed August 3, 2009, <http://alwaysonwatch2.blogspot.com/2008/08/lizzie-borden-did-she-or-didnt-she.html>.

The Borden house was in many ways unremarkable. For one it was extremely narrow and lacked hallways. When one entered the front entry on the right was a narrow staircase leading to the second floor, straight-ahead was a doorway leading to the sitting room, and to the left was a door way leading to a parlor. The sitting room had a door to the left which lead to a dining room and a door in the rear which lead to the kitchen. The kitchen had a door on its left wall to a back entryway that included a sink room, pantry, and another set of stairs to the second floor. The second floor housed the bedrooms, but since there were no hallways the rooms were connected to each other through doors, creating a lack of privacy. To combat the awkwardness of going through each other's private space, Lizzie and Emma, Andrew's daughter's from his first wife, used the front stairs while Andrew and his wife Abby used the back stairs. Lizzie's bedroom was first and Emma would have to pass through it to get to her own room on the left hand side of the house. A door in the back of Lizzie's room led to the bedroom of Andrew and Abby, but a dresser blocked this door. The layout of the house on Second Street played into the dysfunctions of the family and is important in recreating what happened on that gruesome summer day.¹⁹

When describing the lives and personalities of the residents of 92 Second Street it is difficult to tell fact from fiction. After the murders everyone in Fall River had an opinion and story about the Bordens. Rumors swept through the town and the press as every person had a tale they heard from someone else. Gossip is not necessarily false and often is built on a layer of truth, but finding the reality within the falsities is not always clear. Similarly, as the murders have become a part of American folklore, many of the surviving quotes paint the Bordens as

¹⁹ Edwin H. Porter, *The Fall River tragedy: A History of the Borden Murders* (Clark, NJ: The Lawbook Exchange, 2006), 26, 28; Conforti, *Lizzie Borden on Trial*, 44-49.

stock characters in an Agatha Christie novel: Andrew -- the shrewd businessman, Abby -- the heartless stepmother, Emma -- the demure sister, Lizzie -- the spiteful daughter, and Bridget -- the abused maid. These rumors should be used to paint a picture of the attitude of Fall River, but should not be treated as absolute fact. It is important to remember the Borden's reputations have been portrayed in exaggeration and thus these stories must be read with a grain of salt.²⁰

The Bordens were far from the most prosperous of their extended family, yet they were still significantly wealthy when compared to the town's large immigrant population. Andrew had a reputation for being frugal, saving money where ever he could. In a *New York Times* article reporting Lizzie and Emma were selling the house of the murders, the reporter recounted Andrew's supposed words when asked why his family did not live in the nicer part of town: "What is the matter with the house? It is good enough for me -- good enough for any one to live in." To him a home was a place of lodging and nothing more. Andrew Borden was involved in many different industries. For many years he worked as an undertaker, an attractive occupation for a supposed money-hoarder as it always guaranteed business. Saving money, he became involved with increasingly more lucrative (and acceptable) industries; he dealt with real estate, banking, the mills, and even farming, owning two ranches that acted as vacation spots. His greatest real estate holding was a building in the center of town which displayed his name in large letters; Andrew Borden was a well-known citizen of Fall River, whose residents were reminded by his name every time they went through the center of town. At the time of his death

²⁰ Porter, *The Fall River tragedy*, 1-15; Conforti, *Lizzie Borden on Trial*, 44-49.

his wealth was estimated to be between \$300,000 and \$400,000 (\$8.34 to \$11.1 million in 2018 real wealth), which was still a small sum for Fall River's elites.²¹

In 1845, Andrew Borden and Sarah A. Morse wed in Fall River. There is hardly any historical record of Sarah, making most discussions about her purely speculative. Edward Radin, author of the often quoted *Lizzie Borden: The Untold*, surmised their marriage was one of love because she did not have a large dowry. He assumed for frugal Andrew to marry a lower income woman the two must have had a deep emotional bond. Their first daughter, Emma, was born in 1851, and five years later Sarah bore another daughter Alice Esther, who passed away at the age of two. Lizzie was born in 1860 and was the last of the Borden children. Legend has it that Andrew wanted a boy and thus he named her Lizzie rather than the formal Elizabeth out of spite. Similarly, he gave her the middle name Andrew, which was meant to be the name of his son. Sarah died of "uterine congestion and spinal disease" when Lizzie was two years old and Emma was twelve. After Sarah's death, for two years Andrew had relatively little help raising his girls, with much of the responsibility landing with Emma, leading him to marry his next wife Abby Durfee Gray.²²

Andrew and Abby's marriage was one of utility rather than love. Both had something to gain from the other. Andrew was a single father with two daughters; he needed help raising the girls and Abby was a 37-year-old spinster, who people had gossiped about after the murder as being plain and overweight. He provided money and she provided child care. Even the prosecution noted the awkward pairing of Andrew and Abby when in the opening statements

²¹ Conforti, *Lizzie Borden on Trial*, 24-28; "The Borden Mansion Empty," *New York Times*, September 10, 1893.

²² Edward D. Radin, *Lizzie Borden: The Untold Story* (New York City: Simon and Schuster, 1961), 21; Conforti, *Lizzie Borden on Trial*, 24-28.

William H. Moody pointed out their physical differences: Andrew “was a spare, thin man and somewhat tall. Mrs. Borden was a short, fat woman weighing, I believe in the neighborhood of 200 pounds.” The couple was married within a few months of meeting each other; it was a speedy business deal rather than love at first sight.²³

Abby had a tough life. Her father worked as a metalsmith and the family lived on a working-class salary. She did not get married until she was 37; it is not clear if this was by choice or if she had no suitors as it seems people were obsessed with mentioning her appearance and weight. She had few friends and rarely went to church. When Abby was 32 her mother passed away and her father remarried a woman one year younger than her. Living at home still, the almost non-existent age difference between her and her new stepmother most certainly lead to an awkward family dynamic, that was likely heightened when she welcomed a new sister 36 years the difference. Over many years her sister Sarah would become her only true friend, but before that friendship came to fruition, her marriage to Andrew was an escape from her father’s new family. But becoming a Borden had many challenges of its own, mainly becoming a stepmother.²⁴

While Lizzie was too young to remember her mother or her death, Emma was old enough to only remember her mother but also her other sister who had passed away. Additionally, it was Emma who cared for Lizzie in the two years between Sarah’s death and the new marriage. Emma would always have a dislike for Abby who was intruding on her family. While money will become an issue between Emma and Abby, Emma’s young age suggests a deeper rooted

²³ Conforti, *Lizzie Borden on Trial*, 29-30.

²⁴ Conforti, *Lizzie Borden on Trial*, 29-32; Radin, *Lizzie Borden: The Untold Story*, 22-23.

jealousy rather than class tensions. When asked about her relationship with her stepmother, Emma said that she believed Abby “was not interested in” her and Lizzie, despite reports that Abby tried to be a mother to the girls. Emma was an extremely protective older sister even though she was often portrayed as the weak sibling. Originally, Emma occupied the larger of the two bedrooms on her and Lizzie’s side of the upstairs. Yet, a few years before the murder Emma gave up her large room to Lizzie and switched into the smaller space. When the prosecution asked numerous times, and quite perplexed, if the room change was Lizzie’s idea, Emma finally responded that “no, sir . . . I offered it to her.” Lizzie did not get the bigger room because she forced her weak sister into giving it to her; rather, Emma wanted to give it to Lizzie. Personality wise, Emma could not be more different than her sister. She was quiet and shy, while Lizzie was outgoing and popular. The *New York Times* exemplified the differences between the two sisters by stating: “Emma Borden has always worn black since the day of the tragedy, and whenever the two sisters appear in public together, one [is] in the habiliments of grief, the other in a suit of light-colored material.” In addition, Emma, unlike her sister, took education seriously going to Wheaton Female Seminary, although she only stayed for four semesters.²⁵

To many Lizzie Borden was an oddity even before the murders. She hated school, dropped out of the local high school after two years, which made her significantly less educated than most of the young upper-class women of Fall River, including her sister. Lizzie lived a life of leisure. Two years before the murder she took a second tour of Europe. Money was never a

²⁵ Radin, *Lizzie Borden: The Untold Story*, 22-23; Conforti, *Lizzie Borden on Trial*, 32-34; Frank Burt, *Trial of Lizzie Andrew Borden: Volume 2* (Bristol, MA: Supreme Court of Massachusetts, 1893. From LizzieAndrewBorden.com <https://lizzieandrewborden.com/wp-content/uploads/2011/12/TrialBorden2.pdf>) 1564; “The Borden Mansion Empty,” *New York Times*, September 10, 1893.

problem for her as Andrew provided his wife and daughters each \$4 a week of pocket-money, a significant amount of funds for a non-working woman (about \$111 in 2018). Socially, Lizzie was involved in many women's clubs, including the Young Women's Christian Temperance Union. She became very involved in the local Congregational Church, which Andrew was a member, but hardly ever attended services. Lizzie was also a Sunday school teacher for numerous years. Yet, despite her pious and progressive public image, after the murders, rumors of her now famous temper began to surface, as she was accustomed to getting her way especially when it came to her father. Andrew and Lizzie were extremely close; he had never worn a wedding band in his years of marriage to Abby, but he did bear a plain gold ring Lizzie gave to him. Lizzie shared a possessive bond with her father that evidently Andrew did not share with his wife. Some scholars have conjectured that this relationship may have been rooted in incest; Andrew had direct access to Lizzie's bedroom and marrying a weak stepmother was to cover up the crimes. But there is no evidence of this, merely researchers trying to fill in the gaps with their imagination to heighten the drama of an already dramatic family.²⁶

The drama of the Borden family reached its zenith five years before the murders. The father of Sarah Whiting, Abby's half sister, died and the family house was split between Sarah and her stepmother. The stepmother wanted to sell the house, but Sarah wanted to stay in her childhood home, yet lacked the funds to buy her out. Abby convinced Andrew to buy the stepmother's half of the house for \$1,500 and then he gave the deed to Abby. Andrew did not disclose this deal to his daughters, but tempers flared when Emma and Lizzie learned of their father's generosity. At the trial Emma stated the deal made trouble "between my father and Mrs.

²⁶ Conforti, *Lizzie Borden on Trial*, 34-37.

Borden and my sister and I.” The entire family was feuding as the girls believed they were more deserving of such a gift than their stepmother. Emma described high tensions between Abby and the sisters, but stated they “never said anything to [Abby] about it.” The household was filled with a silent passive aggressive tension.

Lizzie and Emma learned about the real estate deal, Andrew gave his daughters the deed to a property on Ferry Street that was once their grandfather’s. This property provided considerable rent, but was worth \$3,000; Andrew gave both his daughters more than the equivalent of his gift to wife Abby. Interestingly enough, at the trial Emma claimed the gift was not an attempt to appease her and her sister. Andrew’s daughters were furious that he gave his wife a property worth \$1,500 and then soon after he gave them property worth more than his wife’s; the attempt at appeasing his daughter seemed rather clear and the prosecution clearly thought so too. Emma similarly claimed after this fight, relations between the sisters and the stepmother eased. Yet, again the prosecution took issue with this claim eventually getting Emma to admit that Lizzie stopped calling Abby “mother” after this event and instead referred to her as “Mrs. Borden”. The episode fundamentally changed Lizzie’s relationship with her stepmother. While there might not have been outright fighting, the subtle jab of calling Abby, the woman who raised her, “Mrs. Borden” paints a picture of a house in silent tensions.²⁷

While family drama is usually hidden from anyone outside of the bloodline, there was one outsider who witnessed it all. Bridget Sullivan was the Borden’s live in maid. She had been born in Ireland and immigrated to the U.S. six years before the murder. She landed in Newport, Rhode Island at the age of twenty with no family nor friends accompanying her. She found her

²⁷ Conforti, *Lizzie Borden on Trial*, 33.

way to Fall River and the Borden house, where she worked for three years “washing, ironing and cooking, with sweeping.” She did not do any cleaning in the bedrooms or the parlor, which was Lizzie’s domain. Lizzie and Emma referred to Bridget as “Maggie,” a slur against Irish immigrants insinuating that they all have the same name. This level of disrespect was not levied by Andrew or Abby who called her by her real name, Bridget. She made \$2.50 cents a week working six days, making a full \$1.50 less than the Borden girls who never worked a day in their life. Many of Bridget’s opinions were not recorded as she tried to keep a distance from the case as not to be pulled into the political storm – even though she still was. One wonders what Bridget heard and saw in that house that she kept quiet to stay out of the fray.²⁸

To the outside observer Fall River was a small yet bustling city. A small group of wealthy families owned the city’s textiles mills that produced around half of the nation’s cloth. These mills, packed along the Taunton River and the coast of Mt. Hope Bay, were operated by a large immigrant population made up of the Irish and the Portuguese. While the foreigners fought among each other, the wealthy Americans separated themselves living in mansions constructed on the prime location called “The Hill,” which over looked the city and the ocean. But one family broke this norm, the Bordens of Second Street. The fairly prominent family, saving money, lived in the middle of Fall River making them outsiders to their wealthy brethren. Mark Twain coined this period the Gilded Age for he believed that under the veneer of prosperity there was mass turmoil; the gilded image of the Borden household was cracking as family strife would soon end in a body count.

²⁸ Frank Burt, *Trial of Lizzie Andrew Borden: Volume 1* (Bristol, MA; Supreme Court of Massachusetts, 1893. From LizzieAndrewBorden.com. <https://lizzieandrewborden.com/wp-content/uploads/2011/12/TrialBorden1.pdf>) 192-195; Conforti, *Lizzie Borden on Trial*, 40.

Chapter 2

Indistinguishable Faces and Pointed Fingers

In the summer of 1892 the people of Fall River had no inclination their small city was about to become infamous. August probably seemed to most like any other summer month: working long hours, cleaning, attending social clubs, and enjoying the breeze from the ocean. But the spindle city was moments away from unraveling.

In late July of 1892, Andrew Borden was supposedly involved in a business quarrel. A man entered the Borden house trying to make a deal with Andrew and the conversation became tense with both raising their voices. The same man returned to the house a week later and Andrew was overheard angrily saying: “no sir, I will not let my store for any such business.” Though, Andrew was again overheard telling the man to come back again the next time he was in town. The only source of this interaction was Lizzie Borden, who heard both conversations through the walls of the house.²⁹

One week later Andrew was involved in yet another argument, this time with one of his tenants over paying rent. Henry M. Carter disagreed with Andrew over the price of the water bill and the rent of the property, No. 88 Snell Street. Carter paid a bill of \$66 dollars to Borden as proved by a hand-written receipt. It is not known how the dispute was resolved: if either Andrew came down on his price or if Carter simply paid the original bill.³⁰

²⁹ *The Witness Statements for the Lizzie Borden Murder Case* (August 4- October 6, 1892. Transcribed by Stefani Koorey. From LizzieAndrewBorden.com. <https://lizzieandrewborden.com/wp-content/uploads/2011/12/WitnessState.pdf>) 3-5; Conforti, *Lizzie Borden on Trial*, 70.

³⁰ *The Witness Statements*, 9.

On August 3, 1892 the Borden household was not as it usually was. For one, Emma was out of town vacationing 15 miles away with her friends in Fairhaven, Massachusetts, a few hours' journey by horse and buggy. Another peculiarity of August, 3 was that Andrew, Abby, and Lizzie spent the night before and the early morning ill, barely sleeping. While Lizzie only felt uncomfortable, both Andrew and Abby spent the hours furiously vomiting. Andrew dismissed the illness to food-poisoning from last night's dinner, but Abby had darker thoughts; she became paranoid that someone had tried to poison them. Believing that either the previous day's milk or bread had been tampered with, Abby spiraled into a hysterical fit. She went to see her neighbor Dr. Seabury Bowen, even though Andrew had sternly told her he would not pay for the visit. Paying with her own allowance, Dr. Bowen assured Abby she was not poisoned and need not fret. For Abby's first thought at illness was an attempted poisoning suggested the climate of the Borden household must have been almost hostile. But the day's irregularity was not over; around one in the afternoon John V. Morse, Andrew's brother-in-law from his first marriage, arrived at the house. It was not unlike him to show up unannounced and discuss business deals. Later in the day Morse went to one of the Borden farms and then returned for supper. Andrew had not been to the farm for some time and it is suspected that he was looking to sell the property. After dinner Lizzie went to the house of one of her and Emma's closest friends, Alice Russell, a distinguished member of the local Congressional Church. An absent daughter, a mysterious illness, and a surprise visit made Andrew and Abby's last day of life hectic.³¹

The next morning started more uneventful than the previous day. Andrew, John, and Abby all ate breakfast around 7:00. By 8:45 John had left planning to return again that evening

³¹ Conforti, *Lizzie Borden on Trial*, 51-53; Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 373-378.

and fifteen minutes later Andrew was off to work. Lizzie awoke late, coming down stairs around 9:00. At breakfast Abby asked Bridget to clean the windows, inside and out, and then excused herself upstairs. Andrew completed his errands swiftly depositing a check and visiting the barber, he then returned home at 10:45 still feeling the pangs of yesterday's illness. Lizzie, the ever dutiful daughter, helped her father take off his shoes and lie down on the coach for a much needed rest.³²

By 11:10 the walls of the parlor and the upstairs guest room were freshly painted red, from the spraying of blood. Where the heads of Andrew and Abby Borden should have been laid piles of mush, parts of skull fragments and brain matter. Andrew Borden's dead body laid on the coach of the parlor in the exact position he was in while he took his nap. His head was bludgeoned with an axe a total of ten times. One blow split his nose, lips, and lower jaw bone in two. Another blow cut his left eye-ball in half, while the most forceful one came from the side chopping his ear and breaking his skull with the blade going straight into the brain. Up-stairs in the guestroom, Abby Borden's body lay face down on the floor boards. The back of her head was pulverized with eighteen blows, and there was a major slash down her back. Eleven of the head wounds went straight into Abby's brain. The front of her face was significantly bruised, most likely from her fall to the floor. The faces of the married couple were indistinguishable as they were the target of a heinous crime.³³

³² *The Witness Statements*, 5; Conforti, *Lizzie Borden on Trial*, 51-63.

³³ W. A. Dolan, "ABBY BORDEN'S AUTOPSY" (Fall River, MA, August 11, 1892) From Lizzie Andrew Borden Museum & Library <https://lizzieandrewborden.com/evidence/autopsies.htm>; W. A. Dolan, "ANDREW BORDEN'S AUTOPSY" (Fall River, MA, August 11, 1892) From Lizzie Andrew Borden Museum & Library <https://lizzieandrewborden.com/evidence/autopsies.htm>.

To come upon a body whose head was smashed by an axe would be sickening, but imagine if that body was your father's. At 11:10 Lizzie did just that. Upon finding her father's corpse she frantically called to Bridget to come quick and immediately sent her to go across the street to get Dr. Bowen. Bridget soon returned in a panic with news that the doctor was not home. Bridget frantically told Lizzie she was certain she locked the doors of the house as she left to work on the windows; though she did leave the back door closest to her open. Lizzie again sent Bridget away; this time to get Alice Russell. The neighbor Adelaide Churchill, whose house was close enough that she could hear a commotion, came out to see about the noise. Lizzie quickly sent Adelaide away to find a doctor in Dr. Bowen's absence. Neither Lizzie nor Adelaide thought to get the Irish or Canadian doctors that lived in the two houses down the street. By the time Adelaide returned without finding a doctor, Dr. Bowen had returned home and rushed to the house on his wife's command. With all the disturbance from the ghastly murders no one ever called the police, but they nevertheless soon learned of an incident at the Borden house and sent officers to check in with the family. By 11:45 the police, Alice Russell, Dr. Bowen, County Medical Examiner William Dolan, Adelaide Churchill, Bridget, and Lizzie were crowding 92 Second Street. Within thirty-five minutes the news of the murder of Andrew and Abby spread from the parlor to neighbors to the police station.³⁴

In the folklore of the Borden case the city police are often depicted as bumbling idiots on the day of the murder. For one, the police were holding a station picnic at the beach during that morning and afternoon, meaning only a few officers were on duty to deal with the initial panic.

³⁴ *The Witness Statements*, 1-3; Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 270; Conforti, *Lizzie Borden on Trial*, 60-62.

On the biggest day of Fall River's history, most of the police force was far away basking in the sun. Legend has it that when the police first arrived at the scene, officer George W. Allen saw John S. Sawyer, a local artist, looking at the commotion of the Borden house and ordered him to stand guard at the door. Supposedly, only when Sawyer complained at 6:00 PM that he had not eaten all day did the police replaced him with an officer. This story contradicts another interpretation of events. Apparently, when officer Allen first saw Andrew's maimed body, he was so startled he could not speak clearly. If this is in fact what happened, Allen would not have been able to communicate with Sawyer to guard the door. While there is no proof for any of these stories, most believed the police were ill-equipped to deal with such a gruesome murder and to their defense they had never dealt with a crime of such scale.³⁵

When the police and Dr. Bowen first arrived, no one realized that Abby was also dead upstairs. Lizzie had only seen her father's body and no one thought to look for or to find Abby. Perhaps this demonstrates the ongoing family tensions and inconsideration for Abby, or the sensational shock of finding Andrew's body prompted Lizzie and Bridget to react to that event first. Dr. Bowen requested a damp cloth to wipe away the blood on Andrew's face because he could not positively identify the body as it was still oozing blood. He declared Andrew's death happened twenty minutes earlier, probably around 11:00 AM, though forensics at this time were shaky at best. It was only after Bridget and Adelaide Churchill returned from upstairs with a white sheet to put over Andrew's body did Adelaide asked about Mrs. Borden. Observers state Lizzie strangely responded that Abby returned from an outing that morning and just as well

³⁵ Radin, *Lizzie Borden: The Untold Story*, 66-67; Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 430; Conforti, *Lizzie Borden on Trial*, 64.

could be dead somewhere in the house. Bridget and Adelaide again ascended the stairs and soon found Abby dead in the guest bedroom. Upon telling the news to the rest of the household, Dr. Bowen went to examine Abby's body. He noticed there was significantly less blood splatter around the room and the blood was already coagulating, which he concluded meant she was killed some time before her husband.³⁶

While Abby's body was examined, John Morse returned to the Borden house around 11:45 AM. He apparently entered the side door to the house holding three peaches, one of which he was eating. This is strange because he claimed to have gotten the peaches from the tree in the backyard meaning he needed to pass through the front yard to get to the tree. By this time, the front yard had a significant number of bystanders trying to see through the windows and figure out the commotion. When he entered the house he heard about the murders for the first time from Lizzie; curiously he never questioned a mass of people looking through the house windows.³⁷

Upon telling John of the murders, the police began their extensive investigation. They searched the house, the outside, and the barn incase the murderer was still hiding on the property. Finding no one they began to search for evidence. The first thought was the killings were the result of a robbery as the Bordens were one of the wealthiest families on Second Street, but to the police's surprise nothing was missing from Andrew and Abby's persons nor the house. With no clear signs, the police split the work into two separate areas of focus: one group would comb through the neighborhood for witnesses, and the other group would take a closer look at the house itself.³⁸

³⁶ Radin, *Lizzie Borden: The Untold Story*, 68; *The Witness Statements*, 5; Conforti, *Lizzie Borden on Trial*,:65.

³⁷ Radin, *Lizzie Borden: The Untold Story*, 68

³⁸ Conforti, *Lizzie Borden on Trial*, 66.

The police who stayed at the house had success in finding early clues. Lizzie was twice interviewed briefly in the few hours after the murder. Officer Patrick Doherty, a young Irishman with clear biases against the Portuguese, conducted the first interview. Once Lizzie told him she was in the barn at the time of the murder and heard nothing, he asked her if any Portuguese worked in her father's mills. To Doherty, if a Portuguese worker had a relation to Andrew, they were the prime suspect. Lizzie said she did not know of any Portuguese workers and the interview ended with Lizzie going to her room to rest. Minutes later patrolman Michael Mullaly, accompanied by Officer Doherty, entered Lizzie's bedroom to continue the interview. Mullaly asked if the family kept any axes in the house and Lizzie told them to have Bridget take them to the cellar; if Lizzie was the killer this would have been a brazen move.³⁹

Bridget took the officers to the cellar and they found a hatchet covered in dried blood with clumps of hair stuck to its blade. Another hatchet was found along with two other axes; the first instrument was clearly the weapon of death. While in the basement the police came across another gruesome clue, a bucket of blood soaked rags, which surprised Bridget who frequented the cellar and claimed to have never seen them before. When the police went back to Lizzie's room to question her about the bucket, Alice Russell, Reverend Buck of the local Congregational Church, and Dr. Bowen, a group of Fall River's finest who could protect her from any misconduct of an Irish police force, were in her room. Mullaly asked Lizzie about the bucket of bloody rages and Dr. Bowen answered for her, telling the police he was informed of the bucket's purpose and it need not be further investigated. While Dr. Bowen never explicitly said what the

³⁹ Radin, *Lizzie Borden: The Untold Story*, 60; Conforti, *Lizzie Borden on Trial*, 66-70; *The Witness Statements*, 5-20.

bucket's purpose was, he did say it had been there for four days directly contradicting Bridget's assessment.⁴⁰

While the investigation inside the house was already uncovering conflicting testimonies and bloody blades, the investigation in the neighborhood was turning into a dead end. People had been bustling around the street around the time of the murder, but no one had seen anything. As the morning turned to afternoon the police found one credible witness, a local doctor who knew Andrew, Benjamin Hardy. He had seen a pale looking man acting oddly on the sidewalk outside of the Borden home when he passed by at 10:30. Hardy was the only one to see this man and this tip did not lead to any arrests. The police then spread out through town looking for suspicious characters. While patrolling the streets, they arrested numerous Portuguese men on that first day, showing the tensions between the Irish and other ethnic groups. Antonio Auriel was arrested at 2:15 as he drank at a local bar and was soon released for a clean record and a firm alibi. Another Portuguese man was arrested when he tried to withdraw money from a bank and yet another was accused of carrying a bloody axe through town. Both were let go on firm alibis, especially the gentlemen accused of holding the axe as he was not in Fall River till that afternoon.⁴¹

As the police in town were rounding up any Portuguese man they could find, Lizzie Borden's alibi was starting to fall apart. When Patrolman William H. Medley arrived at the house he found his fellow officers questioning Lizzie and bustling through the house for clues. The scene he walked into was chaotic. The police had failed to rope off the house from the public; bystanders, including reporters, had been sneaking into the house for a better look. The

⁴⁰ Conforti, *Lizzie Borden on Trial*, 66-70; *The Witness Statements*, 5-20.

⁴¹ Conforti, *Lizzie Borden on Trial*, 20, 67; *The Witness Statements* 5-20.

scene was so disturbed by the influx of people that someone had stepped in the blood and left a bloody foot print in the middle of the parlor. Being told the situation, Medley went to the backyard to get out of the commotion and inspect the barn. Lizzie had claimed to have spent the thirty minutes before finding her father's body in the barn's attic. Medley testified during the trial that as he ascended the stairs and became eyelevel with the floorboards of the attic he placed his hand on the ground. His palm made an imprint on the floor's dust proving that any movement in the attic should have left visible clues. He latter stated to the courtroom that he "didn't notice that anything had or seemed to have been disturbed." He also noted the barn was ghastly hot and the windows where locked allowing no air flow. The barn had no signs of recent occupation and its intense heat seemed unbearable for the policeman who testified he stayed for no longer than fifteen minutes. It is worth noting that Medley was promoted to inspector and never worked a day as patrolman again after August 4; perhaps his was being rewarded.⁴²

By noon assistant marshal Fleet arrived at the house acting as the senior officer. Fleet proceeded to interview everyone in the house for himself. He began with Lizzie who had already been interviewed several times. She first reiterated that she was in the barn attic for thirty minutes and then entered the house to find her father dead. Then Lizzie old the authorities for the first time of the mysterious man who had visited the house and argued with Andrew. Two hours later Fleet wrote in his notes that he searched Lizzie's room for clues and found nothing. Lizzie informed him it would be impossible for the murderer to get into her room because she made sure "she always kept it locked." Either this again this points to an unstable house, to keep your

⁴² Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 692; Conforti, *Lizzie Borden on Trial*, 69.

room always locked suggests a level of distrust towards the houses occupants and visitors or this a cover to get the authorities out of her room.⁴³

The next person to be interviewed was Bridget. She told Fleet she had gone upstairs at 10:55 leaving Lizzie in the kitchen ironing. She rushed down stairs ten minutes later as Lizzie was crying that Andrew was dead . Bridget went as far to say that she was “very sure I was not up stairs more than ten to fifteen minutes.” Fleet then moved on to Morse, who claimed he had been visiting relatives that morning. Morse is the first to make note about the strangeness of the murders Morse remarked it was peculiar “that this should be done in the day time, and right in the heart of the city.” Morse then reminisced that this reminded him of the “Nathan case” twenty-five years ago, which Fleet agreed. This seems to relate to the 1870 murder of the stock broker Benjamin Nathan who was beaten to death in New York City with no killer ever to be found.⁴⁴

Fleet’s interview summed up the complexity of the Borden case. For one Lizzie gave the police their first suspect, the mysterious man who argued with Andrew for the last few weeks. Most concerning though, Fleet got two contradictory reports from Lizzie and Bridget. Lizzie claimed to be in the barn for half an hour before she discovered Andrew’s body and Bridget claimed Lizzie was in the house ten minutes before she discovered the body. The difference between ten and thirty minutes is significant. And finally, Morse seemed to be strangely detached from the murders remarking that they are odd and remind him of a murder he had read about over twenty years ago.⁴⁵

⁴³ *The Witness Statements*, 2-4.

⁴⁴ *The Witness Statements*, 2-4; New York Times July 30, 1870: “Horrible Murder.”

⁴⁵ *The Witness Statements*, 2-4.

What Fleet did after the interview has been a source of much controversy. The Assistant Marshal went into the cellar where he met Dr. Dolan and Officer Mullally. To his surprise Fleet discovered a 12 by 8-inch wooden box next to the fireplace that had not yet been searched. When the box was opened there was the head of a hatchet with the handle broken off lying among old tools. Fleet believed the break along the handle was recent but he noticed something even stranger. The blade of the hatchet seemed to be coated in ash from the fireplace; all the other tools were coated with dust from what he deemed naturally occurred in cellars. It is unclear what Fleet thought of the axe but his next action has been scrutinized ever since. Instead of taking away the axe as evidence he put it back into the box and placed it where he had found it.⁴⁶

Latter that day things were further complicated when Lizzie, in yet another interview, changed her story regarding the barn. Talking to officer Harrington, Lizzie said she was in the barn for only twenty minutes. Lizzie claiming to be in the barn for twenty minutes is much more believable when compared to Bridget saying she was upstairs for ten to fifteen minutes before the murders. Some historians like Conforti think this change in time is overly convenient for Lizzie, suggesting she might have lied to make the difference with Bridget's time line of events seem more realistic. Yet in the heat of the moment of seeing one's own father torn to pieces and being bombarded with police questions, it is understandable for time and details to become confused.⁴⁷

In officer Harrington's written report from the day of the murder the first signs of suspicions against Lizzie were presented. Lizzie's attitude disturbed Harrington. His report

⁴⁶Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 474-480.

⁴⁷ *The Witness Statements*, 5; Conforti, *Lizzie Borden on Trial*, 70.

indicated he told Lizzie she should answer questions the following day because her mental state might lead to her to say something wrong. But Harrington then wrote Lizzie claimed she was fine and showed no signs of distress:

Her whole bearing was most remarkable under the circumstances. There was not the least indication of agitation, no sign of sorrow or grief, no lamentation of the heart, no comment on the horror of the crime, and no expression of a wish that the criminal be caught. All this, and something that, to me, is indescribable, gave birth to a thought most revolting. I thought, at least she knew more than she wished to tell.

His writing seems almost poetic and out of place for a police report. Harrington was fixed on Lizzie's demeanor and his indication of her coldness has become often repeated lore surrounding the case. While Harrington's assessment of Lizzie has stuck, there were other reports that refute his views. Assistant Marshal Fleet wrote Lizzie was bothered by the constant questioning which "would make her sick," a statement which does not align with Harrington's observation of no "agitation."⁴⁸

On the very first day of the investigation it becomes apparent reading the reports of each police officers that there were very distinct and different personalities in the Fall River police department. Harrington came across as dramatic and self-important. When he described Lizzie's demeanor he used five different phrases to describe her coldness with each phrase meaning the same thing. And he dramatically wrote it was "revolting" to think Lizzie was lying. Medley, on the other hand, was very methodical in his investigation. He made no character judgments, but described semi-experiments. In the barn he tested the dust on the floor and looked at the locks. He wrote he checked Morse's alibi that very day. Medley's description was what one thinks an officer would/should record when they arrive at the scene of the murder. Then, there was the

⁴⁸ *The Witness Statements*, 2, 5.

report from Assistant Marshal Fleet that read bureaucratically and with a sense of indifference. He wrote down interviews as they happened; he did not make his judgments known. This is probably because he was in a position of power and must act conservatively. A complicated case would surely be further complicated by the group's differences.⁴⁹

Emma Borden arrived by train in the late afternoon. She had been told her father was ill; she must have been confused by the chaotic scene at her house. The shock of the news must have been devastating. The police had cleared out of the house soon after, but left an officer on guard in case the murderer returned. Alice Russell agreed to stay the night with Emma, Lizzie, and Bridget, sleeping in the guest bedroom where Abby had been slain. The day had been like none other in Fall River. A wealthy businessman and his wife were hacked to death in broad daylight with no witnesses. The victims had been hit so many times it was clearly a crime of passion. Police, doctors, and onlookers had rushed about the Borden home trying to make sense of such a horrific event. Nothing was making sense: stories were changing, clues pointed in different directions, and people were worried. August 4, 1892 was a day that never seemed to end. And when it seemed Fall River had finally gone to bed, the women of the Borden house were wide awake.⁵⁰

Officer Joseph Hyde was guarding the Borden house the night of August 4. He was surprised when he saw a small lantern being lit on the second floor. Through the windows he saw Alice and Lizzie descending the stair with Lizzie holding something unrecognizable in her hands. The two women entered the basement and Hyde could see them standing over a sink. He

⁴⁹ *The Witness Statements*, 1-8.

⁵⁰ Conforti, *Lizzie Borden on Trial*, 72.

heard the rushing of water and the two women went back to their rooms. Minutes later Lizzie descended the stairs again to the cellar this time alone. She bent over the sink and looked like she was working. Lizzie was becoming more suspicious by the second.⁵¹

⁵¹ Conforti, *Lizzie Borden on Trial*, 72-73; *The Witness Statements*, 38-39.

Chapter 3

Lizzie in the Spotlight

By the morning of August 5, 1892, one day after the murder of Andrew and Abby Borden, newspapers across the country were carrying the story on their front page. Boston newspapers relished in the horrific crime that happened only fifty miles south. The *Boston Daily Advertiser* headlined “Murder Most Foul Andrew Borden and His Wife Killed” and exclaimed the victims’ “heads [were] chopped to pieces.” The *Boston Journal* claimed it was “impossible for the police to find clues.” And the *Worcester Daily Spy* asserted “suspicions rest on persons who are in the family circles.” Yet the news of the double homicide was not just confined to Massachusetts, it was a national sensation. On August 5 *The New Haven Register*, *The New York Times*, *The New York Herald*, *The New York Tribune*, *The Philadelphia Inquirer*, and *The Washington Post* all carried the story. More surprising, the story was not just confined to the East Coast; newspapers in South Dakota, Idaho, Nebraska, Ohio, and Missouri picked up the story. The spreading of the story was most tied into the shock and awe of an elderly couple being axed to death in broad daylight, but also the rumors that the murder was committed by their daughter, a woman, was more shocking. The case had spread within hours to the residents of Fall River and spread within a day to the nation.⁵²

⁵² “A Double Murder,” *Aberdeen Daily News*, August 5, 1892; “Both Murdered,” *Boston Morning Journal*, August 5, 1892; “Found Murdered,” *Idaho Statesman*, August 5, 1892; “Husband and Wife Murdered in Daylight,” *New York Herald*, August 5, 1892; “An Old Couple Butchered,” *New York Tribune*, August 5, 1892; “An Old Couple Murdered,” *Morning World Herald*, August 5, 1892; “Tragedy in a House,” *Plain Dealer*, August 5, 1892; “Butchered in Their Home,” *New York Times*, August 5, 1892; “Was it Murder or Suicide?,” *Washington Post*, August 5, 1892.

Surprisingly, the newspapers also knew almost every fact of the case so far. *The New York Times* gave a minute-by-minute timeline of Andrew and Abby's day before they were killed, even noting that Andrew had been to the barber. *The New York Herald* gave a description of Andrew's face noting where each blow appeared. The South Dakota newspaper went as far to describe in inches how long each gash was. There was some confusion with small details, especially with newspapers outside of the general New England area. A couple of newspapers claimed Abby was found dead on her bed, while in actuality she was found dead on the floor. The strangest assertion made by both South Dakota's *Aberdeen Daily News* and the *Washington Post* was the deaths might have been suicide. It is unclear how the Bordens' wounds could be described as self-inflicted and the theory disappeared within a day. Nevertheless, the nation was watching as the Fall River police department, which had never dealt with such a crime, began its investigation.⁵³

The day after the murder, Lizzie was more and more becoming a legitimate suspect. With the claims from Lizzie of a possible poisoning, and stories of Abby's concern over poison, the police went to local drug stores to ask about suspicious characters. Eli Bence, a pharmacist at D.R. Smith's drug store, gave the police their first lead. Bence claimed on the morning of Wednesday August 3, a woman entered the shop asking for prussic acid. She stated it would be used "to put on the edge of a seal skin coat," but Bence refused the sale for she lacked a prescription. The woman, whom he believed was well dressed, seemed very agitated at her refusal. Hearing this story, the cops brought Bence to the Borden home to hear and look at

⁵³ "Butchered in Their Home," *New York Times*, August 5, 1892; "Husband and Wife Murdered in Daylight," *New York Herald*, August 5, 1892; "Was it Murder or Suicide?," *Washington Post*, August 5, 1892.

Lizzie. He was sure Lizzie was the girl who asked for poison being certain of “not only her face and general appearance, but also of her voice.” Other pharmacies gave less definitive answers about their past customers. P. S. Brown’s pharmacy did say a woman had asked for poison earlier in the week and was turned away. The clerk could not remember what she looked like. The poison and Bence’s testimony would eventually lead to a major court battle over its legitimacy.⁵⁴

In the few days after the murders the police extensively asked citizens about rumors regarding the Borden’s domestic affairs. Rumor and gossip was going to be the key to figure out who did it. Most witnesses claimed to have never witnessed Borden family hostilities, but they had heard stories from others. A typical response was from Mrs. Churchill when she told Officer Harrington that “the relations between Lizzie and the step-mother were not very friendly, so I hear, but have no personal knowledge of it.” While people were eager to talk about the Borden, no one wanted to be the definitive source of such slanderous accusations.⁵⁵

On Saturday a private funeral for Abby and Andrew was held in the house. Seventy-five people attended the services and were shocked by what they saw. Andrew and Abby were displayed in an open casket, their mutilated faces on full display. And to add to the drama, Lizzie supposedly kissed the corpse of her father on the lips. The *New York Times* reported there was between 3,000 and 4,000 spectators outside of the home at the time of the funeral. Twenty police officers cleared a path from the house for when the family began the march to the cemetery. *The New York Times* also reported Lizzie was “trembling” as she left the house and “her face showed

⁵⁴ Conforti, *Lizzie Borden on Trial*, 74; Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 8-9.

⁵⁵ Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 11.

traces of the intense suffering she [had] borne for three days.” The newspaper was painting a drastically different picture from the police who saw her as emotionless and cold.⁵⁶

While the police believed Lizzie was most likely the culprit, they did follow every lead they heard. With the police being on full display to the nation they tried to put on an image of professionalism leaving no clue uninvestigated. The people of Fall River had many different outlandish theories about the murders and lead the police down many different dead ends.⁵⁷

Many of the rumors the police investigated were easily disproven. A Miss Sarah Scholick told the police she had heard the eight-year-old Annie Connelly and the ten-year-old Mamie Smith say they had “heard cries in Mr. Borden’s house, and a few minutes later a man came out the front door.” While this seemed a promising lead, it turned out the two girls were no where near the Borden house on the day of the murder. A similar incident happened when Peleg Brightman told the police he had seen a bloody axe in a barn on the other side of the Taunton River at the Brayton Farm. When the police investigated the farm they did in fact find an ax, but it had no blood stains. Mr. and Mrs. Silvia, who owned the ax, explained that their two daughters had frequent nose bleeds and it was quite possible that blood had spilled on to the axe at an earlier date. The police deemed this satisfactory noting there was a pond on the Brayton Farm. If it was the murder weapon they would have most likely thrown it into the water and not kept it in plain sight. In another false hope two men at a local bar had been bragging about knowing who

⁵⁶ Conforti, *Lizzie Borden on Trial*, 77; “The Fall River Mystery,” *New York Times*, August 7, 1892.

⁵⁷ Sarah Miller, *The Borden Murders: Lizzie Borden and the Trial of the Century* (New York City: Schwartz & Wade, 2016), 113-114.

the killer was. Upon the police arriving at the bar the two men quickly walked back their stories; the report noted the two were known for their tall tales.⁵⁸

Resources and time were spent towards investigating the so called “clue of Frank Wade.” The police records never explicitly state Wade’s clue was except for a mention of seeing a “suspicious character” near a local pond. It is unclear if Wade saw someone throw something into the pond or why he thought this person was suspicious. Nevertheless, it led to officers Doherty, Medley, and Harrington dredging the pond. They never found an ax, but they did write about finding “a paper bag which contained an old banana peel, which was tied up with a very long string,” which they believed “was very suspicious indeed.” It is moments like this that the Fall River Police Department got their reputation for being bad at their jobs. It is bizarre and almost comical that there was a genuine belief that a banana peel with a string attached could solve the mystery. The police determination to take every “clue” seriously showed their inexperience.⁵⁹

The police did follow up with some legitimate suspects to confirm their alibis. Henry M. Carter, the man who had the rent dispute with Andrew Borden, was questioned by the cops. He had a firm alibi being at a friend’s house for breakfast and then being on a train at the time of Andrew’s death. A receipt from paying Andrew a rent of \$66 was also given to the police. A rumor about Bridget and Lizzie was also looked into. People were saying Lizzie told Bridget on the day of the murder that there was a dress sale downtown. Lizzie supposedly even offered to give Bridget money if she wanted to leave the house to buy something. Bridget denies Lizzie

⁵⁸ Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 14-13.

⁵⁹ Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 15-16.

ever trying to get her out of the house. She did recall Lizzie once mentioning a dress sale, but it was just a passing comment. John Morse and his alibi of being with relatives was also further investigated but deemed truthful. The police interviewed Thos. Walker, who had lived at a property owned by Andrew and subsequently had been evicted. His boss gave him a firm alibi saying that Walker worked for him the whole day of August 4. Walker stated he had no issue with Andrew for it was his own fault for becoming a “drunk” and falling behind on rent.⁶⁰

The biggest oversight of the investigation was that Bridget’s story was never scrutinized. The police only used Bridget as a witness about the environment of the Borden household. While Lizzie’s alibi about being in the barn was greatly scrutinized, the police never questioned Bridget about being in the house and supposedly not hearing Abby or Andrew being hacked to death. This did not go unnoticed by Lizzie’s defenders. Town Alderman John Beattie was quoted in *The Fall River Herald* saying, “I have always wondered why the servant girl was not arrested at first, as she was the only person in the house at the time of the murder.” Beattie was pointing out an oddity but it is important to note he was also coming from a discriminatory point of view. He also argued Lizzie “brought up as well and with the intellectual associations she [had]” could not have committed the crime; drawing contrast to the poor Irish immigrant. Lizzie does make multiple statements that she believes Bridget was innocent and should not be bothered. It is very odd that Lizzie defended Bridget because Lizzie always called her “Maggie,” the derogatory catch-all name for Irish servants.⁶¹

⁶⁰ Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 9, 13.

⁶¹ Conforti, *Lizzie Borden on Trial*, 42-43.

On August 10, the court called for an inquest to be held the next day. For Massachusetts district attorney Hosea Knowlton this was an opportunity to interview witnesses and suspects and for the courts to gain a better understanding of the sprawling investigation underway. While the district attorney traveled to Fall River, without telling anyone Fall River Police Captain Marshal Hilliard sent a notice asking for an arrest warrant for Lizzie. Hilliard received the warrant but stored it away still not telling anyone of its existence. Lizzie, only finding out three days before that she was the primary suspect, asked for her lawyer Andrew J. Jennings to be present at the inquest. Being private affairs with no concrete legal consequences, judges had considerable leeway with how they allowed inquests to be run. Judge Blaisdell refused Lizzie's request. Lizzie, Bridget, John Morse, and acquaintances to the Borden family were all put on the stand for three days, without any legal representation, while District Attorney Hosea Knowlton interrogated them.⁶²

Unfortunately, much of the inquest transcript has been lost to time. The most important testimonies to have survived were those of John Morse, Emma, and Alice Russell. The most important lost testimony was Lizzie's. With the inquest becoming national news there were quite a few reporters in the courtroom. The subsequent news articles provide some insight and commentary into the missing testimonies. *The Evening Standard*, a Massachusetts newspaper, did publish a transcript of Lizzie's testimony. The article is not the official court transcript and there is nothing to cross reference it with, but it is the only document that provides any window into what Lizzie said during the inquest.⁶³

⁶² Conforti, *Lizzie Borden on Trial*, 81-85; "What Fall River Folks Say," *The Fall River Herald*, August 11, 1892.

⁶³ *Inquest Upon the Deaths of Andrew J. Borden and Abby D. Borden* (1893, Transcribed by Stefani Koorey, From LizzieAndrewBorden.com, <https://lizzieandrewborden.com/wp-content/uploads/2011/12/LizziesInquest.pdf>) 1-2.

The testimony of John Morse cleared up any suspicions against him that may have still lingered. He told Knowlton he would “answer any questions,” and he kept his word. Morse answered every question directly and never seemed agitated or defensive. At times he was rather blunt with his responses; he admitted to keeping a letter correspondence with Emma but never sent a single letter to Lizzie. When confronted with the stranger parts of his alibi, he acted as though it was normal. Knowlton asked him multiple times why he had not written to the Bordens to tell them he would be visiting; Morse simply divulged anything dramatic claimed he usually dropped in unannounced. Other than Lizzie’s, Morse’s testimony was the most revealing, not because it but because it did not disclose anything at all.⁶⁴

District Attorney Knowlton’s questioning of Emma Borden was much more direct than his questioning of Morse. He was very interested to know if Emma knew anything about her father having a will. Emma told him she was aware of a will but she had only heard about it years ago in passing and knew nothing more. Knowlton seemed displeased with Emma’s inability to produce direct responses about her knowledge of the will; he asked her nine separate times about the supposed document. A similar interaction occurred over the presence of the axes in the basement. Emma told Knowlton she did not distinctly remember there being an axe in the basement but upon further contemplation a neighbor did chop wood in their cellar. Therefore, the presence of an axe did not shock her. Knowlton proceeded to ask Emma if she believed it was an axe or hatch that the neighbor used; Emma responded that she did not know but Knowlton asked her the same question several more times. After the back and forth about the axe/hatchet Emma produced another suspect. She told the district attorney that the only man she knew her father did

⁶⁴ *Inquest Upon the Deaths*, 94-106; Conforti, *Lizzie Borden on Trial*, 85-87.

not get along with was Andrew's brother-in-law, Mr. Harrington. Curiously, Knowlton spent hardly anytime asking about Andrew's supposed enemy. It is not known why the two did not get along. Emma proceeded to tell Knowlton about the property dispute between herself, Lizzie, and Abbey. This is the first time the authorities were hearing an account of the altercation from anyone actually involved. The interview stopped short. Knowlton asks Emma if she is feeling well in which she responds she was not. He ends the interview telling her, "I have omitted a good many questions I should have asked you on that account." It was made clear that the authorities were not going to give Emma a free pass.⁶⁵

The testimony of Alice Russell had a different tone from the other interviews. Knowlton held back his aggressive questioning style he had shown Emma and Morse and presented a gentler and politer disposition. When asking about the relationship between Lizzie and Abby he told Alice "I do not like to ask this question, but I feel obliged," a remorse he never stated to the past witnesses. Whether he was changing his attitude on purpose or not, Alice divulged a great deal of information. While the beginning of the interview seemed fruitless everything changed when Knowlton asked if she has remembered anything that she might have forgotten in the initial excitement that came with the proceeding days of the crime. Alice begins to tell a story that is not recorded in any of the police notes. Since the murder she had been spending the nights at the Borden house to keep Lizzie and Emma company; she was sleeping in the guest bedroom, where Abbey had been killed. On the day of the funeral, Alice went to the bedroom to do her hair. When she entered the room she saw something underneath the bed that look like a club. She immediately picked it up and gave it to the police. Alice told Knowlton that she had never seen

⁶⁵ *Inquest Upon the Deaths*, 107-114.

the club in all her time of sleeping there but noticed it as soon as she had walked into the room on that morning. Strangely, Alice proceeds to explain that she was terrified to spend another night in the room knowing a possible murder weapon had been under the bed. Yet, she never stated she was disturbed sleeping in a room that had been recently occupied by a murder victim.⁶⁶

Alice proceeded to give the authorities more information than they were expecting. She stated that while sleeping at the Borden's she often walked through the door that connected Lizzie's room to the guest bedroom. Knowlton asked multiple times if Lizzie's door was ever locked which Alice replied it was not, going against Lizzie's earlier claims that she always locked her bedroom door even when she was home. She was then asked to explain why a cop had seen her and Lizzie going into the cellar the night after the murder. Alice claimed that they were simply going downstairs to dump out dirty cleaning water. Then, Knowlton asked Alice if she knew what happened to the dress that Lizzie had worn on the day of the murder. Alice claimed she did not know but it was probably in a closet. By the time of the trial Alice's story would start to change.⁶⁷

Lizzie testified for three days about the murder of her father and stepmother. At times Lizzie showed quick wit and confidence. The best example of this is when the district attorney asked her the exact same question two times in a row and she retorted "that is the same question you asked before; I can't answer you any better now than I did before." Yet, at other times she tripped over her words and contradicted herself. An example of this was when she was trying to remember when John Morse arrived at the house, she told Knowlton "I heard him down there

⁶⁶ *Inquest Upon the Deaths*, 146-151.

⁶⁷ *Inquest Upon the Deaths*, 156, 52.

about supper time—no, it was earlier than that ... I think.” To many in attendance Lizzie’s story was changing drastically. Her defenders called upon the testimony of Dr. Bowen to describe her sometimes faulty memory. Dr. Bowen had prescribed Lizzie a double dosage of morphine to calm her nerves. He testified that it is possible that the drug could affect her memory. Yet, he also admitted he had never seen Lizzie take the drug; in fact no one had seen Lizzie take the drugs since they were prescribed. It is impossible to know if Lizzie was medicated on morphine during the inquest leading to her confusion, though she did have the drugs in her possession.⁶⁸

During Lizzie’s questioning it becomes clear the authorities were trying to set up a motive for Lizzie to kill her father and stepmother. Knowlton kept circling around the issue of money. Like he had questioned Emma, he asked Lizzie repeatedly about Andrew’s will, which Lizzie gave the same response as her sister, that she had heard about it in passing. Knowlton went on to ask if Lizzie knew how much money her father was worth, if she knew how much property he owned, and if she knew how much property her stepmother owned. A significant amount of time was spent discussing the property dispute between the daughters and Andrew and Abbey. The prosecution clearly believed money was the root cause of the crime; they were building their case in front of Lizzie.⁶⁹

At times Lizzie did try to steer the questions towards possible suspects. She brought up the mysterious man she heard arguing with Andrew, giving a rather long description of what she heard. She also brought up the same hatred between Andrew and his brother-in-law that Emma had spoken about. Yet, again Knowlton only asked how Andrew knew Mr. Harrington and then

⁶⁸ Conforti, *Lizzie Borden on Trial*, 89; *Inquest Upon the Deaths*, 115-126.

⁶⁹ *Inquest Upon the Deaths*, 47-48.

changed the topic. It is unclear if Harrington was already a looked into suspect or if the prosecution thought Harrington was simply a ploy to get the spotlight off of Lizzie.⁷⁰

As the inquest went on Lizzie became more and more flustered. She began telling conflicting accounts of what happened when Andrew came home for a nap on the day of the murder: she went up stairs before going to the barn, she was upstairs when he entered, she saw Bridget, she did not see Bridget. She told Knowlton she had not heard Abby come into the house after leaving to supposedly check on a sick friend, but she had told numerous other witnesses that she did hear Abby re-enter the house. It came to the point where Lizzie exclaimed, “I don’t know what I have said. I have answered so many questions and I am so confused I don’t know one thing from another. I am telling you nearly as I know.” Lizzie’s state can be explained three ways. For starters, she could have been on heavy dose of morphine that was affecting her ability to think. Another possibility, is that she, an innocent victim, was on the stand for three days without a lawyer, seemingly being accused of murdering her father, and could not handle the stress. The last possibility, which the prosecution believed was most likely, was that Lizzie was guilty and was subsequently getting tangled in her own lies.⁷¹

On the last day of the inquest Lizzie testified for only a half hour. Nothing new was stated in her last stand. When Knowlton was done questioning Lizzie, the court took a recess. It was unknown to the witnesses if the inquest was over or if more questioning was to come. As Lizzie awaited her fate, Knowlton and Marshal Hilliard convened in a near by office. Agreeing to arrest Lizzie, Hilliard informed Knowlton that an arrest warrant for Lizzie had already been

⁷⁰ *Inquest Upon the Deaths*, 48-50.

⁷¹ *Inquest Upon the Deaths*, 60-64, 93-95.

made. Knowlton had Hilliard immediately return the warrant and receive a new one; he was concerned that the old warrant could create a legal issue if it became public knowledge. Upon receiving the fresh document, the authorities went to the work office of Andrew Jennings, the Borden family lawyer. The three men marched back to the courtroom to find Lizzie and present her with the warrant. Lizzie was accused of the murder of Andrew and Abbey Borden, a capital offense for which there was no bail. When Hilliard asked if Lizzie wanted him to read the warrant, Jennings advised her to say no. One week earlier Lizzie had been living a rather mundane life enjoying the Summer months; now she would be locked away in prison and forced to defend herself against the accusations of murder.⁷²

⁷² Conforti, *Lizzie Borden on Trial*, 97-100.

Chapter 4

Womanhood on Trial

The day after Lizzie Borden was arrested for the murder of her father and stepmother, she and her lawyer went to the courthouse for her arraignment. Police officers were posted at the courtroom entrance only allowing enough people to come in as there were seats. Everyone in Fall River had heard Lizzie had been arrested and a massive crowd surrounded the courthouse. Lizzie entered the courtroom in a dramatic fashion. She was escorted into the room by the local Congregational Church minister, Reverend Edwin Buck. Holding onto his arm it must have been a striking scene to watch the young Lizzie accused of murder being lead by a religious leader. While Lizzie was being defined by the holy man by her side, her lawyer was ready for a fight.⁷³

Judge Josiah C. Blaisdell oversaw the arraignment. He was the same judge who had been in charge of the inquest. Lizzie's lawyer Andrew Jennings immediately called for Blaisdell to recuse himself from the case because the inquest had made him biased against his client. He claimed Lizzie's constitutional rights to an unbiased court would be threatened if Blaisdell did not step down. Blaisdell denied Jennings' objection to recuse, but Jennings had secretly won. The press and Fall River's elites, who had already become suspicious of the police and district attorney Knowlton, now had a third party to be wary of, the judge. Many were seeing Lizzie as an innocent girl who was being ganged up on by power-hungry men.⁷⁴

Judge Blaisdell made three important announcements. First, instead of going to an immediate grand jury, there would be a preliminary hearing since Jennings was not present for

⁷³ Conforti, *Lizzie Borden on Trial*, 95-97.

⁷⁴ Conforti, *Lizzie Borden on Trial*, 97.

the inquest; it would serve to get him on the same level as the prosecution. Second, he assigned a \$500 bond for John A. Morse to assure he did not leave town during the trial. Third, he assigned another \$500 bond for Bridget. Showing the discrimination towards Fall River's Irish population, the Fall River *Evening News* posted John Morse's bail but not Bridget's. When he learned of Bridget's \$500 bond, Fall River Marshall Rufus Hilliard posted her bail under the agreement she would be a servant in a local jail for the duration of the trial.⁷⁵

Neither the preliminary hearing nor the grand jury offered new evidence to the case. The most important aspect of the preliminary hearing came from Judge Blaisdell's closing remarks. When both the defense and the prosecution had rested, Blaisdell gave his response on how the case would go further. Talking to Lizzie, Blaisdell explained that it was very difficult for the state and himself to accuse a woman of committing such a gruesome crime, but if Lizzie was male, "would there be any question in the minds of men what should be done with such a man? ... the judgment of the Court is that you are probably guilty, and you are ordered committed to await the action of the Supreme Court." Blaisdell blatantly stated gender was a factor in this case and that it took a highly impartial mind, which he believed he possessed, to see above Lizzie's sex. While he was right, as gender became the focal point of the defense's argument, the statement revealed the judge was fully compromised. Nevertheless, his decision pushed the case to a grand jury to decide if the Massachusetts Supreme Court would try Lizzie for murder.⁷⁶

⁷⁵ Conforti, *Lizzie Borden on Trial*, 100.

⁷⁶ Conforti, *Lizzie Borden on Trial*, 104-109; *The Preliminary Hearing in the Lizzie Borden Case, New Edition* (1892, Transcribed by Stefani Koorey, Harry Widdows, and Kat Koorey, Scotts Valley, Ca: CreateSpace Independent Publishing Platform, 2009) 56.

The grand jury convened on 15 November. The jury was made up of twenty-one males, and only a majority vote was needed for Lizzie to be indicted. The grand jury would only hear from the prosecution and their witnesses as the case was only to establish if there was enough evidence for a legitimate trial to take place. When district attorney Knowlton finished his case, the grand jury could not come to a decision. In an unprecedented move, Knowlton asked Lizzie's attorney Jennings, if he would like to come into the court and give a defense of Lizzie. Jennings promptly turned down the offer as it violated grand jury proceedings. Why Knowlton asked Jennings to argue his case is unknown. Some understood that towards the beginning of the actual Supreme Court trial Knowlton believed he would lose the case. Some historians argue he wanted the grand jury to vote for a non-indictment to spare him a major Supreme Court defeat. Despite the jury's initial qualms, it was leaked to the press that a close friend had come back to the courtroom to deliver a new testimony regarding Lizzie's dress. After the mysterious friend spoke, the grand jury indicted Lizzie with a vote of twenty to one.⁷⁷

From the day Lizzie was arrested until the date of the trial, she sat in prison for almost eleven months. During this time Lizzie, who was willed half of her father's fortune, was creating one of the best defense attorney teams the state of Massachusetts had ever seen. Jennings headed the hunt for other lawyers; not being a defense lawyer by trade Jennings needed an attorney familiar with criminal law. Right before the preliminary hearings Melvin O. Adams joined the Borden defense. Adams had attended both Dartmouth and Boston University Law. After being admitted to the bar he began working as an assistant for Suffolk district attorney Oliver Stevens, where he gained a wide knowledge of criminal law from the perspective of the prosecution.

⁷⁷ Conforti, *Lizzie Borden on Trial*, 123-125.

Adams was not only well versed in law, he had powerful friends. In 1890, Adams began working for the Governor of Massachusetts, John Quincy Adams Brackett. To bring youth to the legal team Jennings brought on Arthur S. Phillips, a 28-year-old who graduated from Boston University Law that same year. While Phillips was mostly used for research, his youthfulness gave the team an air of energy in the courtroom. The real power of the defense came with the addition of George D. Robinson. He had been recommended to the team to by William H. Moody, a former co-worker of Robinson who was now working as a district attorney in upper Boston. Robinson was a Harvard graduate who had served in the state legislature, but he had also served as a US congressman and a three-term governor of Massachusetts. Being a prominent politician, Robinson showed finesse in the trial, addressing the jury as a commoner rather than a highbrowed lawyer. And if his celebrity status in the state was not enough of an advantage, Robinson had political ties with the Supreme Court of Massachusetts.⁷⁸

At the time of Lizzie's trial, three members of the Massachusetts Supreme Court would hear her case. The Chief Justice was Albert Mason, a Civil War veteran and former member of the state legislature. He had never gone to law school but was still able to pass the bar and was appointed to the court in 1882. Members of the press played on Mason having a daughter close to Lizzie's age. Appointed to the court in the same year as Mason, Justice Caleb Blodgett was educated at Dartmouth and had been a bankruptcy attorney before becoming a judge. Blodgett was less scrutinized and had less media coverage than his colleagues. The most controversial of the judges was Justin Dewey, who had been appointed to the Supreme Court by former Governor

⁷⁸ Conforti, *Lizzie Borden on Trial*, 104,126-128; William Davis, *Bench and Bar of the Commonwealth of Massachusetts, Volume 1* (Boston: The Boston History Company, 1895) 500.

George D. Robinson, one of Lizzie's defense attorneys. Lizzie's critics were outraged about Dewey, believing he could not remain impartial because the man who gave him his job was a key player on the defense team. While a conflict of interest is hard to ignore, to Dewey's credit he had been a distinguished lawyer, state congressman, and senator with a credible reputation. While the three judges, especially Dewey, were dramatized by the press, the spectacle was heightened when Judge Blaisdell stepped down from his position. While an obscure complaint had been lodged against him in another case, many speculated he stepped down due to criticism from how he handled Lizzie's previous hearings.⁷⁹

While Lizzie mounted a formidable team of lawyers with personal connections to the judges, the prosecution found itself in a less fortunate situation. The attorney general Albert Pillsbury was a distinguished criminal lawyer and was assumed to join Knowlton as the state's two prosecutors. But Pillsbury had been skeptical about the case from the beginning; he believed there was no way they could win. Before the grand jury Pillsbury pressured Knowlton to offer Lizzie a way out with an insanity plea. Knowlton even hired a detective to ask friends about Lizzie's mental health. When it was apparent the insanity plea was not an option, a few weeks before the trial started Pillsbury recused himself from the case citing a recent "illness." The prosecution lost an experienced and ruthless trial lawyer and need a replacement fast. The state of Massachusetts appointed William H. Moody, a Boston district attorney. He recommended former Governor George D. Robinson to the Lizzie Borden defense team. The legal world of Massachusetts was very small, and this led to a trial with a tangle of interests. While Moody was a bright young lawyer, graduating from Harvard, he had no experience with murder cases and

⁷⁹ Conforti, *Lizzie Borden on Trial*, 131-132.

was relatively inexperienced when it came to criminal law in general. Moody later became a judge on the Supreme Court of the United States, but this case was not a prelude to his later successful career.⁸⁰

With the legal teams preparing for the case of their lives, a public outcry of support had come to Lizzie's aid. Suffrage and temperance groups passed resolutions claiming Lizzie's innocence. The Young Women's Union, the Women's Christian Temperance Union, and the Central Congregational Churches Christian Endeavor Society all called for Lizzie's release. They believed it was outrageous that a church going woman, who was involved in such moral groups that promoted temperance, could even be accused of such a crime. They saw Lizzie's arrest as an attack on the new roles women were playing in the public sphere of the Gilded Age. The Women's Christian Temperance Union even petitioned the governor that Lizzie be granted bail. The president of the group, Susan Fessden, was one of the many supporters to visit Lizzie in her jail cell. Fessden argued Lizzie was not going to be tried by a jury of her peers as there would only be men on the bench. Lizzie's case was seen as a battle for suffragists legitimacy.⁸¹

In the most famous interview with Lizzie before the trial, Kate M'Guirk, a reporter with the *New York Recorder*, questioned Lizzie from her cell. M'Guirk had previously lived in Fall River and had been a friend of Lizzie's. Her stated purpose in the article was to see if Lizzie was still the same girl who had "[loaded] up the plates of ... poor children at the annual turkey dinner

⁸⁰ Conforti, *Lizzie Borden on Trial*, 130-131.

⁸¹ Conforti, *Lizzie Borden on Trial*, 101-103, 117-118.

provided during the holidays.” She found Lizzie was that same girl, except for the notable physical toll the legal proceedings and her father’s death had played on her.⁸²

While women and Christian groups were drawing on the new activism of women, many newspapers were also standing behind Lizzie but calling on a different view of her femininity. Instead of seeing her as the moral female crusader, they saw her as the proper Victorian daughter, with murder not even conceivable to such a high-class woman. To them it was the *traditional* role of upper-class women that made Lizzie innocent. Newspapers, including the *Fall River Globe*, referred to Lizzie as “girl” rather than using her name; they emphasized her youthfulness to connect childhood innocence to her plight.⁸³

Another news article revealed the sensational nature of the case. Mayor Coughlin and Marshal Hilliard hired private detective Edwin McHenry out of Rhode Island to do extra work on the case. When McHenry’s services were no longer needed he immediately sought out a young reporter for the *Boston Globe*. Taking on the fake name of Henry G. Trickey, the trickster told the reporter that for a fee of \$500 he would divulge all the evidence the Fall River police had on Lizzie and if the reporter refused he would take the story to the *Boston Herald*. Fearing the loss of such a major story the reporter paid McHenry who weaved together a fantastical story of drama and deception. According to McHenry, Lizzie was pregnant and Andrew had demanded to know who the father was or he would kick her out of the house. In addition, a witness claimed to see Lizzie in her parents’ room at the time of the murder with a “hood” covering her head. The *Boston Globe* published the story the next morning, and immediately the *Globe* was bombarded

⁸² Kate M’Guirk, “Interview with Lizzie Borden,” *New York Recorder*; September 20, 1892; Conforti, *Lizzie Borden on Trial*, 118-119.

⁸³ Conforti, *Lizzie Borden on Trial*, 101-103.

with calls refuting what they had written. It had become clear the story was completely false. The next morning the *Globe* stated: “hereby tender her our heart-felt apology for the inhuman reflection upon her honor as a woman and for any injustice the publication of Monday inflicted on her.” The *Globe* outwardly admitted Lizzie’s womanly “honor” had been unfairly attacked. But to her advantage, Boston’s biggest newspaper was now in debt to her struggles. And in addition, people were questioning why the mayor and marshal hired a private detective in the first place; it was taken as evidence that not even Fall River’s government officials had confidence in the police force.⁸⁴

Excitement was in the air as the country awaited Lizzie’s trial on August 6th 1893. Jury selection began when 111 men were questioned for serving on the jury. In a rare circumstance for trials at the time, many of these men held strong prejudices on Lizzie’s guilt or innocence. Court cases before Lizzie had never received such press coverage and jury selection rarely involved people with already established beliefs. This situation made it more difficult that the twelve people chosen supposedly had no opinions about the murders at all. The case was the biggest story in Massachusetts, not mention the entire country. Either the twelve jurors picked were hiding their true beliefs or lived lives completely isolated from the rest of the world. Nevertheless, the twelve agreed upon men did not represent the diversity of Fall River. Only one of the twelve was Irish and there was not a single Portuguese juror. The eleven other members were white and mostly Protestant farmers. One came from a neighboring town of Fall River and

⁸⁴ Conforti, *Lizzie Borden on Trial*, 121-123; “Abject Apology, Glove Begs the Pardon of Lizzie Borden and Morse,” *Boston Globe*, September 1, 1892.

was an iron foundry owner. Politically eight were Republicans, two were Democrats, and one was an independent. The jury selection played to Lizzie's advantage.⁸⁵

The next day the trial began with an hour and half opening statement from the prosecution. Moody laid out the prosecution's case and aggressively painted Lizzie as a heartless liar. He began summarizing the character of the two Bordens who were killed: Andrew a savvy businessman with responsible spending habits and Abbey a loving stepmother who had taken the reigns when Andrew's first wife suddenly died. Moody continuously emphasized how much money Andrew was worth, building a case that Lizzie's murderous actions were built upon a lust of money. Smoothly, he transitioned to when everything fell apart when Andrew helped Abbey's sister keep her house. Discussing the tense feeling among the members of the Borden household, Moody dramatically stated "from the fact that those who know the most about that feeling, except the prisoner at the bar, are dead, it will be impossible for us at this hearing to get anything more than suggestive glimpses of that feeling." Lizzie was not a "girl" as newspapers referred to her but a "prisoner" who killed her honest parents. Moody then explained to the jury and the crowded courtroom what new evidence had surfaced during the grand jury hearing which had sealed Lizzie's indictment.⁸⁶

Alice Russell had changed her testimony regarding the dress Lizzie had supposedly worn the day of the murders. The police had wanted to see Lizzie's dress which she conveniently never produced. The belief was that whoever killed Andrew and Abby would have been covered in blood, especially since the room Andrew was found in had blood sprayed across the walls.

⁸⁵ Conforti, *Lizzie Borden on Trial*, 134-136; Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 5-45.

⁸⁶ Conforti, *Lizzie Borden on Trial*, 140-143; Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 47-88.

Alice had originally testified in the inquest that the dress Lizzie had worn was probably folded away in some closet. But, during the grand jury proceedings a sudden pang of conscience made Alice turn on her friend. Alice now maintained that on the morning after the murders, she walked in on Lizzie stuffing a dress into the wood-fire of the kitchen stove. When Alice asked Lizzie what she was doing, she stated she was burning the dress because she spilled brown paint on it. To Moody Alice's story was clear proof of Lizzie's guilt; the brown stains were not paint -- they were her father's blood splatter.⁸⁷

Moody's aggressive assaults did not stop at his accusation about her dress. He took aim at Dr. Bowen, the family doctor whom Bridget had gone looking for on the day of the murders. Bowen had made publicly clear he was a supporter of Lizzie's innocence. With a sweeping blow Moody stated "it is to be regretted that Dr. Bowen, a witness accustomed to observation, was the family physician and friend ... for we might expect from him something of accurate observations; but Dr. Bowen thought Mrs. Borden had died of fright." Moody outwardly questioned Bowen's credibility as a medical examiner; what kind of doctor would believe a victim covered in axe wounds died of fright? Later in the trial Moody claimed the only credible medical testimony was from the state mortician, who firmly believed that medical evidence supported Lizzie's guilt.⁸⁸

Moody ended the first day discussing the claims of the woman who had been trying to buy poison in Fall River pharmacy shops. He revealed it was not just the one shop keeper who had identified Lizzie as the girl who had tried to buy the prussic acid but two other people also

⁸⁷ Conforti, *Lizzie Borden on Trial*, 140-143; Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 47-88.

⁸⁸ Conforti, *Lizzie Borden on Trial*, 140-143; Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 47-88.

identified her as the shopper. Then, Moody brought up the illness Mr. and Mrs. Borden suffered the night before they were killed. Mrs. Borden had claimed to be poisoned and three people swear they saw Lizzie trying to buy prussic acid; it was clear to the state that Lizzie had tried to kill her parents the night before by contaminating their food. The prosecution believed this argument would work in their favor. Many of Lizzie's supporters believed Lizzie did not kill her parents because an axe murder was not lady like or physically possible for her to commit. But poison was seen as a woman's method of killing. By tying Lizzie to poison the prosecution argued she had tried to use more ladylike methods of murder, but the failure to poison them meant she resorted to a more violent form of death.⁸⁹

The first day of the trial ended in a dramatic fashion, giving the press the story they were looking for. When Moody ended his opening statement, Lizzie, dressed in all black, fainted in her chair as the courtroom gasped. Lizzie's collapse can be seen in a few different ways. On one hand, she could be innocent and the pressure of being so harshly accused of a crime she did not commit became so much she fainted. On another hand, maybe her fainting was a sign Lizzie was susceptible to dramatic emotional outbreaks that could explain her axing her parents to death. Or perhaps she faked the fainting knowing it would play well in the press. Either way the trial was not disappointing the nation.⁹⁰

The second day of the trial brought one of the biggest legal arguments between the prosecution and the defense. Moody and Knowlton wanted to use the testimony Lizzie had given during the inquest. Lizzie had been shaken and gave many different contradictory responses

⁸⁹ Conforti, *Lizzie Borden on Trial*, 140-143; Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 47-88.

⁹⁰ Conforti, *Lizzie Borden on Trial*, 140-143; Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 47-88.

during the questioning. The defense knew Lizzie's own words was the prosecution's best evidence against her, thus they argued the testimony could not be used in trial. The defense discovered the marshal had made an original arrest warrant before the inquest had began. Governor Robinson argued Lizzie was then practically under arrest when the inquest started. This violated two rules. One, Lizzie was told her lawyer was not allowed at the inquest denying her the legal representation the accused is guaranteed. Second, Lizzie was never told she had the right to remain silent. While Governor Robinson argued these points eloquently, it became clear he had no concrete legal proceedings to support this claims.⁹¹

Moody, on the other hand, showed a strong understanding of Massachusetts legal precedent. He cited multiple cases for why the testimony should be fair game. For one, Knowlton had informed Jennings before the inquest began that Lizzie did not have to answer any questions she did not wish to. Second, Jennings had been coaching Lizzie during the inquest's recesses. If Jennings did not tell Lizzie she had the right to remain silent that was his fault, not the state's. Third, Lizzie never said she was guilty or suggested she was guilty, thus nothing incriminating was actually stated. Fourth, she had been told she was under suspicion and thus knew to be careful of what she said. He also quoted Massachusetts law that stated the judge has the right to decide how inquests proceed, so there was nothing wrong with not allowing Jennings to defend Lizzie. He also looked at a case in New York that stated that inquests are permissible in court cases because it assumes the defendant is a person of interest and thus they know their

⁹¹ Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 756-774.

rights. Moody ended his long list of arguments stating if it was truly a problem Lizzie should have appealed the inquest happenings within the eleven months between it and the current trial.⁹²

It seemed Moody had made the superior argument and the judges would side with him. After a short recess where the three justices made their decision, they reentered the court room holding a piece of paper. In a brief statement the judges read aloud their conclusion: the inquest testimony was not permissible for the prosecution to use. Since Marshal Hilliard held an arrest warrant Lizzie was arguably already in the custody of the authorities and anything she said was “not voluntary.” The prosecution and the press were shocked. It seemed former Governor Robinson’s connections might have given the defense its first major victory. For the prosecution arguing Lizzie’s guilt became even harder as their key evidence was no longer available for use.⁹³

At the end of the second day the prosecution began calling witnesses. The first witness was an architect who helped establish the layout of the house and the crime scene for the jury to have a mental image of the Borden residents. While his statements went over into the third day, the most important testimony came in the later morning from Bridget. She was questioned for the entirety of the day. Both sides attempted to use Bridget’s role as the objective outsider who had a window into the Borden’s life to build their cases. Moody questioned Bridget if she could hear anyone opening the door to the house from her room upstairs to which she replied, “Yes, sir: if anybody goes in and out and is careless ... I can hear it in my room.” The prosecution was leading the witness to establish that she heard no one enter the house, leaving the only possible

⁹² Conforti, *Lizzie Borden on Trial*, 161-164; Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 756-774.

⁹³ Conforti, *Lizzie Borden on Trial*, 161-164; Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 756-774.

murderer Lizzie. But, the line of questioning also left a hole in Bridget's credibility that no one questioned. If Bridget could hear the first floor door close from her attic bedroom, how did she not hear either Andrew on the first floor or Abby on the second floor being hacked to death. Abby's fall from the first axe blow would have made a forcible thud and if she did not die/faint from the first whack there probably would have been a scream or at least a yelp. If Bridget's hearing was so attuned she should have heard the attack.⁹⁴

Yet, the defense for the time being did not want to discredit Bridget but instead use her testimony to poke holes in the prosecution's assessment of the Borden household. Moody had painted the Borden residents as a place of tense "feelings" with Emma and Abbey hating their stepmother. Robinson asked Bridget if she had ever seen any "conflict" in the household which she replied "no, sir." Not only did she come off as a polite servant with her brief and formal speech but she had discredited Moody's assessment in two words. Robinson continued. Since the murders, rumors had circled around Fall River that Lizzie did not eat dinner with her parents, which helped Moody's caricature of the family. When Robinson asked about Lizzie eating with the family Bridget responded, "not all the time." Skillfully, Robinson then asked her "but they did" eat together "from time to time and day to day?" Bridget responded with a "yes, sir." It now seemed that the rumors were purely exaggeration; with Robinson's lead two simple words by Bridget struck down the rumors of conflict. Then Robinson made a major mistake which undid all his work. When Bridget responded to him with "yes, sir" he quickly asked back "what?" It is unclear if he did not hear her or why he asked but now Bridget had a chance to change her response. She revised her statement to that they eat together "sometimes" but not "most of the

⁹⁴ Conforti, *Lizzie Borden on Trial*, 145-148; Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 219-250, 254.

time.” Instead of the popular rumor being quashed as a major exaggeration, it was now confirmed to be true and thus it seemed the Borden ménage was not the typical Victorian household.⁹⁵

As the prosecution brought up witness after witness, it became clear that their argument was based on Lizzie’s dress that she had worn on the morning of the murders. As stated before, after multiple days of police requests Lizzie gave the authorities a dark blue dress which she claimed to have donned on the infamous morning. Matters were complicated when Alice Russell testified to the grand jury that she witnessed Lizzie burning a dress that was supposedly stained with “brown paint.” Moody had already shared with the jury Alice Russell’s story during the opening statement; he used the rest of the trial to try and prove that Lizzie had really burned a blood splattered dress and the dark blue one she handed over a false decoy. When Adelaide Churchill, the ever watchful neighbor who had heard Lizzie’s initial scream and ran over to the house, testified that the dress the prosecution had was not the one Lizzie had been wearing. Churchill stated that Lizzie had worn a light blue dress with dark-blue diamonds. In the cross-examination the defense fought back showing that she could not remember what Bridget had worn that morning, questioning Churchill’s memory. When Dr. Bowen took the stand Moody was ready to pounce. During the preliminary hearing Dr. Bowen had said the dress Lizzie had worn was void of much color, a description not matching the dress Moody was holding. Bowen dodged questions about whether the dress Moody had was the one Lizzie had worn; Bowen was being careful knowing that one wrong move could be discredited by his preliminary testimony. Eventually, when Moody asked him what color the dress was, Bowen responded that it was a

⁹⁵ Conforti, *Lizzie Borden on Trial*, 145-148; Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 254.

very “dark blue.” Alice Russell had not even officially testified yet and the dress was looking more and more suspicious.⁹⁶

Alice Russell testified on the fourth day and the courtroom was silent with anticipation. The *New York Times* wrote that it was “an anxious day for Lizzie Borden” as Russell was the star witness for which the prosecution hoped “a conviction [would be] largely based.” Russell began her testimony describing the night before the murders, when Lizzie visited her home a couple blocks away. Moody led her to tell the jury that Lizzie had confessed to Russell that she had been feeling “depressed.” The jury was then told of Lizzie’s premonitions that her father was in danger and that she “wanted to sleep with my eyes half open ... for fear they will burn the house down over us.” Russell then recalled that Lizzie told her that her parents were sick and that she thought the milk had been poisoned; Abby was not the only one who thought there was a poisoning conspiracy afoot. Lizzie was coming off as paranoid. Who was trying to burn her house down? Why was she talking about poisoning? Why was her father in danger? Russell’s testimony that Lizzie had no answers to these questions was just what the prosecution wanted. The argument was shaping that Lizzie was nervous about killing her parents and was trying to prematurely get the scent off of her. The prosecution did not stop there. When asked about why her and Lizzie were seen going into the cellar in the middle of the night after the murder, Russell said it was to clean out a slop bucket. But when asked why she did not accompany Lizzie on the second trip, Alice replied she did not know Lizzie had made a second descent. Lizzie’s

⁹⁶ Conforti, *Lizzie Borden on Trial*, 150; Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 296-300, 342-370.

best alibi had turned against her. Yet, this was only the beginning of Russell's damaging testimony.⁹⁷

The meat of the testimony was about the dress. When Alice first arrived at the Borden house after Bridget had informed her of Andrew's fate, she found Lizzie in the kitchen. Being the thoughtful friend, Alice "started to unloosen her dress, thinking she was faint, and [was told by Lizzie], 'I am not faint.'" Lizzie had pushed her away from the dress. After establishing that Lizzie had in fact changed her clothes at some unknown time in the morning, Russell could not confirm what the original dress looked like. But she did bring up a new piece of information. Throughout the morning Lizzie kept going to her closet opening the door, looking inside, and then locking it. The police never searched that closet. The climax of her claims came when she described the morning of the burning. She had walked in on Emma asking Lizzie what she was going to do with "it;" Lizzie replied she was going to burn "it." Alice then saw Lizzie take down a dress from the closet in the kitchen and start to stuff it into the stove's fire. Later that day, Alice told Lizzie she should not have burned the dress to which Lizzie responded that it was Alice's fault for not telling her to stop. Moody began to ask Alice why she never gave this account during the inquest or preliminary hearing but Robinson objected. Immediately, Moody backed off and said he would take a different route of questioning. Surprisingly, he did not even try to fight the objection. Nevertheless, it seems Alice was implying Lizzie had made her feel guilty. Either her friend was innocent and the burning of the dress would hurt her chances of freedom or Lizzie was guilty and manipulating Alice to not give the damning evidence. The

⁹⁷ Conforti, *Lizzie Borden on Trial*, 151; Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 373-400.

defenses only response to Alice was asking her if Lizzie donned any blood or had a hair out of place on the morning of the murder. Alice said no.⁹⁸

For the prosecution to seem credible it had to question members of the Fall River police department; their testimony left the prosecution in shambles. While it was never outwardly said, many of the biases and criticisms of the police by locals and the defense were rooted in the fact that they were Irish. The prejudices against Irish immigrants led to many seeing their policing abilities as sub-par. The very fact that Irish cops were accusing a Victorian woman of murder was not only insulting but proof of their inabilities. The first officer to take the stand was Assistant Marshal John Fleet. Moody was able to get Fleet to state that the police had very carefully looked for Lizzie's dress but could never find it. Fleet was completely caught off guard during the cross-examination when Robinson began to ask about the police looking at Bridget's clothing. Fleet had to admit they had not checked Bridget's belongings very closely. A few days prior the defense had used Bridget as a respectable witness to build their case, now they were turning against her. While it is a legitimate point that the police never questioned Bridget whose alibi was just as shaky as Lizzie's, it would have been clear to the jury that Robinson was accusing the police of having biases in favor of the Irish maid.⁹⁹

After the discussion of the dress, Fleet was questioned on the murder weapon. There had been two axes and two hatches found in the basement but none were determined to be the weapon of use. The police and prosecution claimed that the hatchet head which had been covered in ash and found in a wooden box was the murderer's tool. Robinson's cross-examination tore

⁹⁸ Conforti, *Lizzie Borden on Trial*, 150-152; Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 373-400.

⁹⁹ Conforti, *Lizzie Borden on Trial*, 153; Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 460-484.

Fleet to pieces. When Fleet found the axe-head instead of confiscating it as evidence he left it in the basement. The defense asked if he knew where the axe was from August to the grand jury hearing in November; Fleet confessed “no, sir.” While this testimony did not prove that this blade was not the killing instrument it again made the police look incompetent. While the testimony of Fleet did not look well, he had at least tried to make the police look respectable unlike the next witness. When Officer Michael Mullaly took the stand he answered Moody’s questions about the investigation with ease yet added nothing new to the narrative. But when the cross-examination began, without prompting, Mullaly told Robinson that the police had found the hilt to the axe. Robinson blurted out “another piece of what?” Mullaly claimed that Fleet found the handle right after he discovered the axe head. Knowlton and Moody admitted they had no idea what he was talking about. Fleet was then recalled and he and every other cop testified that no hilt was found, but again the police still looked to be inept.¹⁰⁰

The prosecution had much better luck questioning their medical examiners. In a move of dramatics, Knowlton brought out the skull of Andrew Borden. The sight of the cranium set Lizzie into an emotional spiral and the fear of her fainting lead to her being escorted out of the courtroom for the duration of the medical examiner’s questioning. While the dramatics played in Lizzie’s favor as a distraught daughter, County Medical Examiner William Dolan and three Harvard Medical School professor’s gave the prosecution their last win. While all agreed that Abby had been killed first, Dr. Frank Dapper gave the most important testimony. Taking Andrew’s skull and the head of the believed axe weapon, he showed the jury that the axe fit perfectly into the skulls wounds. Dapper and the other doctors told the jury that they believed

¹⁰⁰ Conforti, *Lizzie Borden on Trial*, 155-156; Burt, *Trial of Lizzie Andrew Borden: Volume 1*, 460-484, 684.

this “could” be the weapon. Knowlton had very carefully phrased his questions so that the doctors were not answering to absolutes but to possibilities. In another victory Knowlton asked Dr. David Cheever about blood. First, it was established that after the heart stopped bleeding there would be little blood splatter. Therefore, if Lizzie killed Andrew or Abby on the first blow the subsequent whacks would not leave a large splatter, explaining why there was not a trace of blood on Lizzie. Secondly, the garment that doctors wear when working with bodies perfectly protects the underneath clothes from blood splatter. Perhaps Lizzie had been wearing a cover-up to assure her clean appearance.¹⁰¹

The defense’s cross-examination under Adams was a failure. Easily an argument could have been made that while that axe seems to be the murder weapon there is no proof of who used it. But instead Adams produced a brand new axe, bought at a local store, and had Dapper try to see if the blade matched the wounds; it did not. In a rather bizarre exercise, Adams only proved that a brand new axe was not the murder weapon.¹⁰²

The last stand of the prosecution was about Lizzie supposedly trying to buy poison. The defense completely stalled the prosecution’s evidence. Robinson argued to the judges that Eli Bence, the owner of the pharmacy, should not be allowed to testify because there is nothing incriminating about buying prussic acid. He claimed that it was a chemical often used to put down pets and while there is no proof that Lizzie tried to buy it, it would not matter if she had. Moody fought hard against this arguing that Lizzie was being charged with premeditated murder and this was evidence to her planning. He also cited six other cases where like testimony was

¹⁰¹ Conforti, *Lizzie Borden on Trial*, 164-166; Burt, *Trial of Lizzie Andrew Borden: Volume 2*, 198, 1031, 1079, 1086.

¹⁰² Conforti, *Lizzie Borden on Trial*, 166; Burt, *Trial of Lizzie Andrew Borden: Volume 2*, 1240.

allowed. Again, while it seemed clear that Moody gave the superior argument, the court gave a shocking decision. Moody would be allowed to bring up medical witnesses about the uses of the poison and after their testimony the court would decide if Bence's presence would be justified. Robinson objected almost every other question Moody asked his medical witnesses, with the judges often agreeing with the defense. While one doctor claimed there was no use for the poison other than making other drugs, his remarks were stricken from the jury do to another objection. The judges all agreed that Bence would not be allowed to testify.¹⁰³

The prosecution questioned witnesses for nine days, the defense would only take two. The defense's tactic was to be brief and to the point; the prosecution had smothered the jury with witness after witness. In only rare cases did the attorneys ask follow-up questions but instead let the witnesses speak for themselves. In a genius move, Jennings gave the opening statement. He was a family lawyer rather than a trial lawyer and his connection with the Bordens made him come off as sincere. Jennings spoke of his friendship with Andrew and Lizzie and that his passion was because of his love of them both. Jennings told the jury during his opening remarks that they could not convict on "weak links and strong links." Every "link" had to be strong if they were going to put Lizzie away. Their goal was easier than the state's, rather than finding another suspect they only had to prove there was a resemble doubt. He further went on to argue that the state had failed to give a proper motive. It made no sense that Lizzie killed her father, every witness before said she and Andrew were very close. To these words Lizzie started to cry. On full display Lizzie was showing the jury a grieving daughter.¹⁰⁴

¹⁰³ Conforti, *Lizzie Borden on Trial*, 170-174; Burt, *Trial of Lizzie Andrew Borden: Volume 2*, 1240.

¹⁰⁴ Conforti, *Lizzie Borden on Trial*, 176; Burt, *Trial of Lizzie Andrew Borden: Volume 2*, 1205.

The defense's first task was to find a possible alternative murderer. They brought witness after witness who claimed to have seen mysterious persons around Second Street on the night before and the morning of the murders. Dr. Benjamin Hardy, who told police about seeing a pale mysterious man hurrying with a limp on the sidewalk outside the Borden house on the day of the murders, told the jury his story. Knowlton was able to make him admit that some of his story was an exaggeration including the limp. A mother and daughter neighbor to the Bordens claimed to hear bagging in the night, but also admitted they did not know where it came from. A man claimed to see a carriage outside the Borden house, but also admitted it could have been for the Borden's neighbor Dr. Kelly, who did check-ups out of his home. Another neighbor claimed to see a man leaning against the Borden house, but when Knowlton pressed him during the cross-examination he could not describe the man at all. While the prosecution showed that most of the defense's witnesses were rather shaky, jurors still were given a sense that odd people were lurking around Fall River.¹⁰⁵

The defenses next task was to explain Lizzie being in the barn during the murders. The police had said that the barn looked undisturbed when they investigated the house and that the heat was so unbearable it was unlikely Lizzie was in its attic for twenty minutes. To discredit the police, Jennings brought up witness after witness who testified that upon seeing the commotion at the Borden house they had snuck into the barn to take a look around. It was well reported that on the morning of the murders bystanders from the street had walked through the crime-scene to get a better look. While no one had seen people in the barn it was not ludicrous to think people had entered. And if people had been in the barn, the police claims of it being undisturbed where

¹⁰⁵ Conforti, *Lizzie Borden on Trial*, 177; Burt, *Trial of Lizzie Andrew Borden: Volume 2*, 1369-1377.

false. Hyman Lubinsky, the local ice-cream man, testified that he saw Lizzie coming out of the barn that morning. Knowlton in the cross-examination adamantly questioned the chance that Lubinsky looked into the Borden's backyard but the ice-cream seller persisted. Looking at a map of the property it has been determined that Lubinsky would have only had a one-foot gap of visibility to the barn. Nevertheless, the defense gave a possible credence to Lizzie's claims.¹⁰⁶

The defense's final tactic to win over the jury was to bring Emma to the stand. Emma testified longer than any other witness in the trial. Jennings began by asking the witness about her sister's relationship with Andrew and Abby. Emma told the courtroom that Lizzie and her father had a very loving relationship and was proved by the fact that Andrew never took off the gold ring Lizzie gave him. She also stated that Abby and Lizzie got along, despite popular belief. While there had been a tussle over Abby's sister getting property, the aftermath was civil if not pleasant. She was casting doubt of Lizzie having a motive to kill Abby nonetheless her father. Yet, the main part of Emma's testimony was over the burning of the dress. Emma very skillfully exonerated both herself and Lizzie as well as keeping Alice Russell's integrity intact. She told the jury of Lizzie getting paint on the dress earlier in the Summer and that it was her who told Lizzie to burn it. Lizzie had simply kept putting it off until a few days after the murder as a way to keep her occupied in a time of distress. But when Alice first lied to the police about not knowing anything about a dress, both Emma and Lizzie were concerned that the police would find out about Alice's lie and over exaggerate the story. She understood why Alice had originally kept the story secret, she was trying to help her best friend. But, the dress incident was simply a

¹⁰⁶ Conforti, *Lizzie Borden on Trial*, 178-180; Burt, *Trial of Lizzie Andrew Borden: Volume 2*, 1408-1410.

misunderstanding on Alice's part and Lizzie had nothing to hide. Knowlton did not believe a word she said but Emma would not budge on her side of the story.¹⁰⁷

Compared to the prosecution's case, the defense's arguments for Lizzie's innocence were short and of relatively low depth. Their witnesses only centered around three points: there were mysterious people lurking in Fall River, Lizzie was in the barn which had been contaminated, and Emma could explain the burning of the dress. When Robinson gave his closing remarks he only spoke for twenty-five minutes recapping the defense's witnesses. He spent most of the time discussing that there was no clear motive and that the prosecution only had circumstantial evidence. If Lizzie was certainly guilty where was the smoking gun to prove it? Robinson referred to Lizzie as the "girl" and as "Miss Lizzie." He played on her gender to give the jury a final thought: how could a *girl* kill? When Moody stood to give his closing remarks he repeated what he had said at the inquest, he found no happiness in convicting a woman but the facts were the facts. Lizzie, disturbingly, was the killer. Moody spoke for over five hours; he looked impressive and knowledgeable but on the twelfth day of the trial it most likely came off a bit tedious. Moody stated to the court that the evidence against Lizzie was clear: she was spotted trying to buy poison, she killed her parents because of her greed for money, her alibi about being in the barn was unbelievable, she had hidden the murder weapon in the basement, and she was caught in the act of burning the blood stained dress. To Moody, Alice Russell's story was the smoking gun. While there was nothing concrete that tied Lizzie to the crime, the mountain of circumstantial evidence was no coincidence. When Moody finished Judge Dewey gave a 90-minute speech where he "explained" legal rules and summarized the case. In essence Dewey

¹⁰⁷ Conforti, *Lizzie Borden on Trial*, 186-190; Burt, *Trial of Lizzie Andrew Borden: Volume 2*, 1529-1560.

gave a speech that seemed to say Lizzie was innocent; Moody even objected at one point. Nevertheless, Lizzie now was in hands of the jury.¹⁰⁸

On the thirteenth day, Lizzie's fate was decided. For almost a year the nation clung to every detail: a wealthy bloodline, a family feud, an accusation of poison, a butchered mother and father, an incompetent police force, a team of celebrity layers, and at the center an accused daughter. On June 20, 1893 twelve white Protestant men left the courtroom to determine Lizzie's future. While they did not re-enter the courtroom for an hour, it was reported that they made their decision in ten minutes. The courtroom exploded with cheers when juror foreman Charles I. Richards read the words "not guilty."¹⁰⁹

¹⁰⁸ Conforti, *Lizzie Borden on Trial*, 194, 201 Burt, *Trial of Lizzie Andrew Borden: Volume 2*, 161—1750.

¹⁰⁹ Conforti, *Lizzie Borden on Trial*, 208; Burt, *Trial of Lizzie Andrew Borden: Volume 2*, 1930.

Chapter 5

A False Victory

No discussion of Lizzie Borden is complete without commentary on her verdict of innocence. Taking in all the information it is clear that the jury's "not guilty" verdict was the fairest. The state had to prove Lizzie Borden was guilty without a reasonable doubt, a result they could never accomplish. The evidence against Lizzie was staggering. Her alibi of being in the barn makes no sense. It was a hot summer day and there would be no feasible reason for her to be there. It was also known, almost without a doubt, that she hated her stepmother with a passion. And most damning, she burned a dress with brown stains a few days after the murder. But to Lizzie's defense none of these things prove she did it. The greatest piece of evidence that goes in Lizzie's favor was Bridget's alibi. Her testimony is just as unbelievable as Lizzie's. She fully admitted to being in the house at the time of the murders, but said to have never heard anything. The idea that someone would not hear the commotion of two people being smashed with an axe over twenty times is hard to believe. Perhaps Bridget saw something but was sworn to secrecy and kept said secret for fear of being sent back to Ireland. There is no proof something was missing in Bridget's telling of the story, but one can not be sure. In the end, Lizzie most likely did the crime, but the tinge of uncertainty makes her freedom justified.

Nevertheless, after Lizzie's exoneration, her life was forever changed. While there was a great deal of excitement in the press when she was found not guilty, the media attention soon disappeared. And with the disappearance of reporters there came a disappearance of support. The women's groups, the church goers, and the upper crust of society no longer ran to Lizzie's aid.

She was deemed innocent, but in the public view she was now tarnished. Lizzie and Emma soon bought a new house in Fall River, this time they were living on the wealthy “hill.” But life was no longer the same. For unknown reasons Lizzie and Emma had a falling out and a couple years later Emma moved out of the house and never spoke to her sister again. Lizzie tried to change her name to Lizbeth, though its similarity to “Lizzie” brought her no cover. She was known to hold large parties at her house where actors and actresses would attend, not because they were friends but to gawk at the woman who had once filled every headline in America. Briefly, she was in the newspapers again at the the turn of the century when she was accused of shoplifting, but that scandal was forgotten by the next day’s news cycle.¹¹⁰

While Lizzie Borden the real person fell into a bizarre obscurity, her infamy has prevailed through American history. She was forever immortalized in the popular children’s nursery-rhyme that sang:

Lizzie Borden took an axe,
And gave her mother forty whacks;
When she saw what she had done,
She gave her father forty-one.¹¹¹

The rhyme misses several key facts: it was her stepmother, there were far less wounds, and, most importantly, she was never proven guilty. In the eyes of Americans, Lizzie was guilty without a doubt and such beliefs trickled down into the ears of youngsters. In the popular 1920s musical *Anything Goes*, a character refers to the approaching of another character’s aggressive mother as the coming of Lizzie Borden. Not only was she a song sung by children, but she was a stereotype for a pushy woman. Throughout the twentieth-century and into the twenty-first fictional books,

¹¹⁰ Conforti, *Lizzie Borden on Trial*, 211-216.

¹¹¹ Conforti, *Lizzie Borden on Trial*, 1.

movies, and comics have all been made regarding the murders and the trial, most of which place Lizzie as the killer. Lizabeth might have been a free woman for the rest of her life, but the court of public opinion has forever deemed her an axe murder.

It may seem odd that the public went from defending Lizzie's innocence to permanently labeling her a killer in such a short period of time. But the explanation can be found in the fact that the Borden family was always an oddity. While wealthy and white Americans defended her, the Borden lifestyle never truly fit in with Fall River elites. The Bordens lived in a poor section of town, Andrew did not spend money on leisurely activities, and both Lizzie and Emma were spinsters. The Bordens were not the poster family of Fall River. While there was a real threat to Lizzie, still a wealthy member of society, going to jail they rallied to her defense, but once the possibility of her jailing was gone people reverted back to their old ways of viewing her. Once the threat of prosecution was officially over, the elites could take a step back to analysis the situations and saw Lizzie as probably guilty.

Their defense of Lizzie was never about her actual innocence or guilt it was about her standing in society. While the public might not have liked the way the Borden's lived their lives, Lizzie was still a wealthy, white, protestant, woman, who they would defend no matter the role she played. Her trial was a battle for America in an age of great social tensions. Lizzie represented the *traditional* American that its citizens wanted to keep dominate. The Irish police represented the massive waves of immigration that flooded the streets of America. And the prosecution represented a new way of thinking about women, as much more capable than previously perceived.

Lizzie Borden has often been analyzed in regards to her gender. While suffragists and temperance groups supported her as the new progressive female, she won her case because the

majority saw her as the young Victorian woman. Newspapers and the defense always referred to her as “girl” or “Miss Lizzie,” these words brought certain connotations to people’s minds. A “girl” was not a murderer and a “girl” was definitely not an *axe* murderer. She was also recognized as a Christian. Lizzie was lead into court on the arm of the local minister, to everyone in observance she was a proper protestant woman. The defense played heavily on her role as a daughter, frequently emphasizing her loving relationship with her father. If she had been Andrew’s son would there have been any doubt of his guilt? Her actions during the trial also helped play into the stereotypes about women at the time. She fainted at the beginning of the trial, almost fainted another time, and broke down into tears at one point. Lizzie was seen as a frail young woman, not a brutal killer. Cynics believe Lizzie put on a show in the courtroom knowing such outbursts of emotions would make the jury sympathetic to her plea. Not only though was she a woman, she was the daughter of a wealthy businessman. To accuse Lizzie of guilt was to attack every women of the upper class in the Gilded Age. To win the case would be to defend the social norms and defeat the encroaching immigrant population and heartless government.

For Fall River’s Irish police force, convicting Lizzie was a chance at defending their honor. For a male Irish immigrant, finding a job on a police force was the highest opportunity available. Not only was their job honorable, but it was their livelihood. And from the very first day the police were criticized for doing a sloppy job. While the crime scene was not properly contained one must take into considerations the difficult situation these officers found themselves in. For one, they had never had any experience with such a horrific crime and, like most police forces in the U.S. at this time, they were not equipped to deal with such an incident. On another note, the day of the murder was the police officers’ picnic on the local beach. The people who responded to the case

immediately were those junior officers forced to stay behind. The police were criticized for their leisurely lunch, but in a small city where crime was not rampant, there was no way they could have expected such an event would have occurred. What was at stake for the Irish is evident from their actions on the day of the murders. They had gone up and down Fall River picking up any “suspicious” Portuguese men they could find. The Irish were considered old-immigrants, while the Portuguese were newer arrivals. They had worked hard to be at the top of the immigrant hierarchy and they were not going to be blamed for the crime; some argue this is why Bridget was never seriously considered as a suspect. For the white Americans it was disgraceful that immigrant cops even dared to accuse a wealthy native born of such a crime. For the Irish cop Lizzie’s conviction would have justified their role, but alas they were on the losing side.

For the prosecutors Knowlton and Moody, the case was about the facts and because of that they knew they would lose. Knowlton was very aware that gender was a major part of the case, which explained his remarks from both the preliminary hearing and his closing argument when he stated that it was hard for him to accuse a woman of murder. He was trying to show that he was in the same direction of thinking as everyone else in regards to a female killer, but the facts made him believe she was guilty. While the prosecution attempted a logic based argument, they were viewed as bullies. The two attorneys had to know the jury did not favor them and they most definitely knew what the nation thought with every newspaper in the country offering commentary on the case. Even before the case went to trial it seems Knowlton tried to get the grand jury from stopping the case by inviting Jennings to give a speech. The writing on the wall was so evident that the attorney general made an excuse not to participate. The state’s best chance would have

been a hung trial. And for the two district attorneys this was going to be a very public defeat in front of Massachusetts' highest court of law; they knew the battle was lost before it began.

With these three factions all having something to gain or loose, any decision of the jury would have been controversial. But, in the end the *traditional* American won, Lizzie was set free, but their victory was not as decisive as they had hoped. Everyone knew Lizzie was not the perfect Victorian woman; the elites of society won the battle but lost the war as Lizzie was forever painted a killer. The courtroom victory meant nothing if society believed that she did it. If anything no one was victorious in this battle for America and social tensions would not cease but continue on.

In a graveyard in Fall River Massachusetts there is a family plot with seven grave stones: a baby who died of disease, a mother who passed away early, a father and a stepmother killed in their home, a daughter accused of murder, and an estranged sister. A family once ripped apart is eternally bond together six-feet under the cold damp ground.

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