

ARREST

"I HAVE HERE A WARRANT FOR YOUR ARREST"

Fall River could no longer endure the teasing of the newspapers with their endless clues and hints and theories. For two nights a "grim and self-composed" Lizzie Borden, the only apparent suspect, had been escorted back to Second Street to sleep in her own bed. Packed around the central station, the people rumbled with impatience. A rumor leaked out to the reporters that the inquest was done and Lizzie Borden's arrest imminent, but none of them budged. The public, they seemed to sense, would not tolerate another false alarm.

Four o'clock, five o'clock, six. The inquest had been over nearly two hours when Marshal Hilliard and District Attorney Knowlton finally emerged. Without comment the two men ducked into a carriage.

The crowd could do nothing but wonder and wait. Perhaps Knowlton had given up after all, headed back on the Boston train?

The city hall clock struck seven before Hilliard and Knowlton returned. Not far behind came Attorney Jennings.

The moment had come.

Marshal Hilliard entered the matron's room. The supper that had been brought for Lizzie, Emma, and Mrs. Brigham sat untouched before them; Lizzie had not moved from the lounge where she'd collapsed after her questioning. Nor did she rise when State Detective Seaver entered, though there was no mistaking why the men had come. Marshal Hilliard held a paper in his hand. All of them could guess what it was, though only Hilliard knew it was actually the second warrant for Lizzie Borden's arrest, freshly sworn that afternoon. As gently as he could manage, he told Lizzie, "I have here a warrant for your arrest—issued by the judge of the District Court."

The long-dreaded words struck Emma Borden like a slap. Immediately, the tears began to stream down her face.

Lizzie said nothing. Her face turned pale and a sheen of tears glossed her eyes.

"I shall read it to you if you desire"—and here Hilliard addressed Lawyer Jennings—"but you have the right to waive the reading of it?"

"Waive the reading," Jennings instructed.

Lizzie turned to the marshal. Across her face, one newspaperman reported, flashed "one of those queer glances which nobody has attempted to describe, except by saying that they are a part and parcel of Lizzie Borden."

"You need not read it," she said.

Lizzie Borden was now under arrest. There was no dramatic slapping on of handcuffs, no dragging the struggling prisoner away.

Lawyer Jennings spoke a few hopeful words to brace her up, but it was clear to everyone that Lizzie's composure was giving way. She might hold her tongue and her tears in check, but she could no longer force the rest of her body to bear the strain. Lizzie was trembling—trembling so pitifully that Marshal Hilliard decided she would not be locked into the cell that had been prepared for her, but put up in the matron's apartment instead.

Emma Borden did not kiss her sister, did not even say goodbye. All Emma could do was cry as Mrs. Brigham and Lawyer Jennings led her downstairs and into the waiting carriage. She did not seem to see the curious throng pushing toward her, nor the police muscling them back.

Lizzie was searched, measured, and booked. Formalities complete, Matron Russell took her dazed and silent prisoner by the arm and led Lizzie to her quarters.

With no one but the matron left to see her, Lizzie shattered.

She sobbed herself sick, her pent-up emotions unleashing a fit of vomiting so violent that Matron Russell finally sent for Dr. Bowen.

The doctor succeeded only in relieving her physical suffering. Mentally and emotionally exhausted, Lizzie went to bed, while outside her window the newsboys' shouts carried the story of her arrest through the streets below.

"NOT GUILTY"

It was as if the crowd had never left, never slept. By eight o'clock the following morning, they were back in full force, despite "a drenching rain." The station doors, which had been barred and guarded for three long days, would today be thrown open, and no one wanted to miss their chance to get inside. At nine o'clock, Lizzie Borden would be arraigned before the Second District Court.

LEGAL PROCEEDINGS

INQUEST

Has a crime been committed? Inquests are convened in the event of a suspicious death, usually to investigate whether foul play is involved and, if so, to identify a suspect for arrest.

ARRAIGNMENT

Does the suspect admit or deny it? At an arraignment, a formal accusation against the suspect is read in court, and the suspect must enter a plea. Pleading *not*

guilty moves the case one step closer to trial, while a plea of *guilty* leads directly to sentencing. (Some suspects choose to plead guilty to a lesser offense to avoid the ordeal of a trial and make themselves eligible for a less severe sentence.)

PRELIMINARY HEARING

(ALSO CALLED A PROBABLE CAUSE HEARING)

Is the accusation legitimate? Serious crimes, such as murder, must be tried before the superior court. But first, the prosecution must demonstrate to a district court judge that there is enough evidence to support the accusation. If the judge decides the accused is *probably guilty*, the accused is either released on bail or bound over to police custody to await a turn before the grand jury of the superior court.

GRAND JURY

Is the case worthy of a trial? A large panel of thirteen to twenty-three jurors listens to the prosecution's evidence and then votes whether to formally charge, or *indict*, the accused with a crime. A majority of at least twelve jurors is required to indict and send the case to trial before the superior court. (A second arraignment before the superior court often follows this step.)

TRIAL

Guilty or not guilty? The prosecution and defense argue both sides of the case before a twelve-person jury. The prosecution must prove the accused *guilty beyond a reasonable doubt*, while the defense is under no obligation to prove anything. Nor is the defendant

required to testify. The jury votes on whether the accused is guilty or not guilty—and in a murder case, the vote for a guilty verdict must be unanimous—and a sentence is delivered by the judge. For those found guilty of murder in Massachusetts in the 1890s, only one sentence was possible: death.

The mood in town had reversed entirely. No longer glancing over their shoulders for fear of the murderer they knew was somewhere among them, the people jostled for a chance to see the woman charged with the most brutal crime in memory, to be in the same room with her and hear her answer guilty or not guilty. They streamed into the upstairs courtroom, filling it so tightly that once again, officers were put on guard to turn people away—this time to keep the room from bursting at its seams.

At 9:05, the door to the matron's apartment opened and Miss Lizzie Borden appeared on the arm of Reverend Buck, her face flushed and her eyes inflamed—though her night's sleep, she'd told the matron, was the best she'd had since the tragedy. She had not eaten, had barely spoken all morning. Emma Borden, Reverend Buck, and Uncle Morse all sat nearby, yet Lizzie looked straight ahead as though there were nothing more interesting in the room than the corner of a desk.

To some, her unwavering gaze came across as cool and calm. Others thought she bore herself "more like one who did not fully understand her position than with the composure of courage." Those who sat nearest noticed Lizzie's lips moving nervously throughout the proceeding.

The clerk of the court called the case of *The Commonwealth of Massachusetts v. Lizzie A. Borden* on complaint of murder.

Here the arraignment took an unexpected turn. Lawyer

Jennings, busy with pen and paper at his desk, asked for a moment more. He finished writing, read the document to Lizzie, and she signed it.

"Your Honor, before the prisoner pleads, she wishes to present the following." Jennings read the document aloud—a motion declaring that Lizzie objected to Judge Blaisdell presiding over the arraignment, and furthermore that Blaisdell was "disqualified" to do so. The inquest had not been officially closed, Jennings argued, and if the evidence on the murder was not all in, Blaisdell should not be permitted to hear Marshal Hilliard's accusation against Lizzie. How could Blaisdell remain impartial toward any remaining evidence if he did?

This argument might have seemed odd to the spectators, for Lizzie Borden was already under arrest. Clearly the authorities saw no need for more evidence. But Lawyer Jennings was actually looking beyond the arraignment. His true concern about whether Judge Blaisdell could listen impartially to new evidence had to do with the next inevitable step: the preliminary hearing.

At first glance, Jennings's concern appears misplaced. No matter what happened next, Massachusetts law guaranteed that Judge Blaisdell would never preside over a murder trial against Lizzie Borden. (District courts in Massachusetts have jurisdiction only over cases that carry a maximum sentence of five years in prison. Homicides, then punishable by death, were heard by the superior court of Massachusetts.) Blaisdell did, however, have the power to decide whether Lizzie's case would proceed to the superior court at all. This would happen at the preliminary hearing—a one-sided dress rehearsal for a trial, where the prosecution presents its evidence against the accused in hopes of convincing a judge that the case is worthy of a place before the superior court. And the catch: the law requires a judge to hear

only as much evidence as it takes to persuade him that the defendant is *probably* guilty.

Judge Josiah Blaisdell had already spent three days listening to the evidence that had led to Lizzie's arrest. Lawyer Jennings, who had not been permitted into the courtroom during the inquest, did not even know what that evidence was. Was it any wonder that Blaisdell was the last person Lawyer Jennings wanted to preside over Lizzie's preliminary hearing? The way Jennings saw it, Judge Blaisdell should be removed from the case entirely, and the sooner the better.

Knowlton stood up. Was this a ploy to delay the prisoner's plea? he wanted to know.

Blaisdell said it was not, and ordered the arraignment to continue.

The clerk of the court, Augustus Leonard, motioned for Lizzie to stand. "This is a complaint charging you with homicide," he called out in that queer singsong cadence heard only in courtrooms. "What say you? Are you guilty or not guilty?"

"Not guilty," Lizzie said in her low voice.

Clerk Leonard, whose age was apparent by his long white beard, had not heard her. "What is your plea, Lizzie A. Borden?" he sang out again.

Lizzie spoke up loud and clear. "*Not* guilty," she said, her emphasis lost on no one.

"LIZZIE BORDEN, STAND UP"

Plea or no plea, Lawyer Jennings was not about to give up on his motion. "It is beyond human nature to suppose that Your Honor could have heard all the evidence at the inquest and not be

prejudiced against this woman," he told Judge Blaisdell. Blaisdell had already deemed Lizzie guilty enough to arrest. How could he possibly turn around and rule her innocent enough to release after listening to even more evidence against her at a hearing?

"The Commonwealth demurs to the plea," Knowlton said in a cool, metallic voice, "and asks that it be overruled. There is nothing extraordinary in these proceedings." He could think of nearly two dozen cases involving inquests and arraignments that had been carried out exactly the same way, and no one had protested.

Jennings was on his feet now. The difference in this case, he insisted, was "apparent and glaring." The Borden inquest had not been convened to root out the most likely culprit, Jennings argued. The police had decided on Lizzie Borden and instead of arresting her had used the inquest to extract information from her. It had been nothing but a secret trial dressed up as an inquest. Had he known that Marshal Hilliard held a warrant for Lizzie's arrest during the entire length of the inquest, Jennings would have had plenty to say on that score as well.

Technically, Knowlton's position was correct. Jennings could not deny that Judge Blaisdell had the authority to convene inquests, issue warrants, and preside over preliminary hearings. Unfortunately for Lizzie Borden, no law specifically prevented the same judge from performing all three roles in the same case. Whether a judge might be biased in such a situation was a matter of opinion, not law, and the decision belonged solely to Judge Blaisdell.

"The motion is overruled," Blaisdell announced.

"Exception!" Jennings demanded. Then, to everyone's surprise, "Your Honor, we are ready for trial."

District Attorney Knowlton was caught entirely off guard. "The evidence in this case could not be completed at once," he protested. "It could hardly all be gathered by next week."

"We are very anxious to proceed at once," Jennings said. "We ask for a trial at the earliest possible moment."

Chagrined, Knowlton had to admit that he was not ready.

Judge Blaisdell granted a continuance to the following Monday, allowing Knowlton just ten days to assemble the evidence in preparation for a preliminary hearing.

"Lizzie Borden, stand up," said Clerk Leonard. "By the order of this court this case is continued until August 22 and you are ordered to stand committed without bail."

"THAT'S THE MURDERESS!"

Police held back the crowd as Lizzie Borden, escorted by Reverend Buck, Marshal Hilliard, and State Detective Seaver stepped into a curtained carriage bound for the depot. Two more carriages containing eight reporters took off after her, eager to cover her departure for the county jail at Taunton. Hilliard zigzagged across one block and down another rather than proceeding straight up North Main, but the tactic only allowed the newspapermen to arrive ahead of them.

And then the train was late. Lizzie waited in the carriage while the people outside gossiped and shouldered nearer. At the ticket master's announcement of the train's arrival, they surged forward, pressing so close to the carriage door that the police had to intervene yet again.

Suddenly, the engine bell clanged and Marshal Hilliard pulled open the curtains. It was time to go. For a moment Lizzie's strength deserted her. She swayed and might have tottered, but Reverend Buck and Marshal Hilliard's arms were there to support her. Leaning on the two of them, she made her way into the last car and took a seat beside a window. Reverend Buck sat

next to her, Marshal Hilliard and Detective Seaver behind. Across the aisle were a pair of newspapermen. Again her blinds were drawn to shield her from the curious. No one spoke. Lizzie stared straight ahead.

Word traveled ahead of the locomotive, and curiosity seekers collected at every stop along the sixteen-mile trip to see the train pass. At Somerset a gaggle of mill girls waited on the platform. When the reporters raised their window to take in the scene, one of the girls spotted Lizzie across the aisle. "Oh, there she is! That's the murderess!" she squealed, and they all crowded closer to get a better look. Lizzie Borden did not flinch.

The train pulled into Taunton at 4:20. Hundreds of people choked the platform, swarming so thickly around every car it looked as if the whole town were there. Detective Seaver stepped from the train and went bustling off toward the north end of the station. Fooled, the eager throng followed. Reverend Buck and Marshal Hilliard then slipped Lizzie Borden around to the south and into yet another carriage.

They halted before a large picturesque building outside the city center. At first glance it might have passed for a library or private school, with neat flower beds and Boston ivy twining lazily across its two-toned stone walls. But though the windows were tall and ample, they were barred. This was the county jail—Lizzie Borden's home for the next ten days.

Lizzie had apparently steeled herself for this moment. "[H]er step as she alighted from the carriage at the entrance to the Taunton jail was firmer than at any time during the journey," the *New Bedford Evening Standard* noted with a mixture of admiration and surprise.

Marshal Hilliard, still shadowed by the newspapermen, con-

ducted Lizzie to the corridor of women's cells. Here he left her to wait with Reverend Buck for the matron. Matron Wright, the sheriff's wife, turned out to be a kindly woman of late middle years, with gold-rimmed spectacles and silvering hair. The more she spoke with Lizzie, the more familiar the young woman seemed. Then the pieces began to fit together—Sheriff Wright had once been city marshal of Fall River. Not only that, the Wrights had been neighbors to one of the city's dozens of Borden families.

"Are you not the Lizzie Borden who used to play with my daughter Isabel?" Matron Wright asked.

It was so. The avid reporters watched the news sting the matron like a pinprick. Within hours her tear-rimmed eyes would be in all the papers.

Lizzie's childhood connection with the Wrights little mattered when it came to the admittance routine. She was subjected to a bath—"an inflexible prison rule"—and then committed to cell number three.

This was a whitewashed space nine and a half feet long, seven and a half feet wide—just enough for a bed, chair, and washbowl. A large window looked out across the garden. Lizzie had brought a box of books and church weeklies, and a valise of clothing. (Since she had not yet been convicted of a crime, Lizzie was not required to wear prison dress.) All of Mr. Borden's weekly newspaper subscriptions would be forwarded her; she did not care to see the dailies with their breathless minute-by-minute accounts of the tragedy. Her meals would be sent in from the City Hotel rather than the jail's kitchen—a luxury permitted to any prisoner who could afford it.

If the rumors floating about town were correct, if Lizzie Borden had truly committed murder to get her hands on her father's fortune, this was surely not how she had planned to spend it.

"SHE HOPED HE WOULD COME HOME A CORPSE"

The case had come to another momentary standstill, but the fascination, the greedy fever for news, grew steadily.

"No matter where a person goes—in the city, in the country, on the river or at the seashore—the murder continues to be the principal theme of conversation," the *Fall River Herald* reported.

Many were not content to simply talk when they could go see for themselves. Friends, sweethearts, and whole families went out of their way to pass Taunton Jail, trying to guess which window Lizzie Borden might be looking out of. A handful of women from as far away as Boston came knocking at Sheriff Wright's office that morning, asking to attend the jail's Sunday services—hoping for a chance to sing hymns alongside Lizzie Borden.

The whole thing disgusted Sheriff Wright. "I do not believe that the public has a right to know anything of this girl's life within these walls," he informed the *Herald*, when she gets up and when she lies down, and what she eats and drinks and when she does either. She herself wishes not to be disturbed, and I am not going to allow her to be disturbed. Nor shall I relate these petty incidents of her life here."

But someone with less integrity obviously blabbed, for the *Herald* reported that in spite of sleeping brokenly, Lizzie Borden arose refreshed at six o'clock with the rest of the prisoners and made her own bed. She did not partake of the fish hash served at seven o'clock, making do with only a cup of coffee and a nibble of bread until her dinner arrived from the hotel at noon.

Even Matron Wright was not above spilling a few scraps to the paper. By Monday most of Bristol County knew she had lent Lizzie one of her own big feather pillows, a rocking chair, and a stool. A white bedspread and pillow slip brought from home, as well as gifts of flowers and fruit, also softened the cell.

Did Matron Wright believe Lizzie guilty? the *Herald* wanted to know.

"No, I can't. I said so to her when she first came, and the only emotion she has shown came then. She looked up at me quickly, and said in a surprised way: 'Oh! you don't? Oh, Mrs. Wright!' and she threw her arms about me, as if it was more than she could stand of relief to find any one who had not turned against her."

Reporters also flocked to Second Street. "I believe firmly in my sister's innocence," Emma told them in her brief statement. "She will have my full support and cooperation, because I am certain she deserves it. The blow has been terrible for me to bear, but I cannot help it. My resources will be at her command."

Lizzie's arrest even subdued her "embittered" uncle, Hiram Harrington. Before, he had relished the chance to tantalize the papers with inside information. Now, with his niece behind bars, all his extravagant claims suddenly vanished. "I am sorry," he told the reporters as he turned them away. "I wish it could not have happened."

Public opinion had veered just as sharply. Lawyer Jennings's motion to remove Judge Blaisdell from the case had not budged the judge, but its effect on Fall River—and beyond—was remarkable.

For a week the people had demanded an arrest, talking as though nothing stood between Lizzie Borden and the gallows. "[F]rom Lizzie's face I read that she is deep as the bottomless pit and subtle as hell void of soul or feeling," read one anonymous letter to District Attorney Knowlton on the first day of the inquest.

Less than a week later, the street corners were hot with debates about the legality and justice of the whole affair. The question now was not whether Lizzie Borden had done it, but whether she would receive a fair trial. "The rights of a noble woman have been trampled upon by you and your blood-hounds who, having run

your suspicions to their end, are gloating over their object," an incensed woman wrote to Knowlton after Lizzie's arraignment.

Jennings's criticism of the inquest had left the citizenry particularly riled. Demands for the facts crowded the newspapers. That inquest, they declared, ought to have been public from the start. People had a right to know what happened behind those doors, just as they had a right to know what had happened to Andrew and Abby Borden.

Facts were indeed in short supply. As the story of the murder spread across New England, details began to blur and tangle. The most sinister tale purported Andrew Borden had told a friend that Lizzie was so troublesome, she "ruined the peace of the household." She refused to eat at the same table with him; when he so much as accidentally walked in during her breakfast, she'd get up from the table and leave the room. And most damning of all: "[W]hen he left the house Lizzie told him she hoped he would come home a corpse," adding, "probably you will before long."

The chain of information was weak, the story secondhand at best—told by a stove salesman to a whaling captain on the porch of a Craigville hotel. Possibly it had come from a mill or bank administrator before that. But if a paper as respectable as the *New York Times* printed it, how could it be false?

The legend of Lizzie Borden was beginning to take root.

RUMORS AND FALSEHOODS

Incensed by the rumors, Lizzie's friend Mrs. Brigham told the *Fall River Herald*, "The story that she would not sit at the same table with her father is a falsehood of the blackest sort.

"It has been said that Mr. Borden was angry with

and did not speak to Lizzie upon her return from Europe. That, too, is a falsehood, distorted out of facts that were as contrary to the statement as could be." Lizzie came home so late, Mrs. Brigham explained, that her parents had already gone to bed when she arrived. She'd spoken only a few words to Emma before going to bed herself. "The next morning Mr. Borden found her steamer chair in the hall and bounded up stairs three at a time to see and greet her, and Lizzie told me her hand ached all day he pressed it so hard. Going down town he met a man who said to him: 'Well, I would guess that some one had come home judging from your bright face this morning.'"

In the absence of facts, newspapers were scrounging for anything to fill the gaps. The *Fall River Globe*, usually the last place anyone would look for a reasoned perspective, remarked in an editorial, "It is hardly necessary to say that the published stories of the proceedings are very incomplete and fragmentary, perhaps some of them mythical."

Before the week was out, Marshal Hilliard had accumulated a desk drawer filled with letters attempting to crack the case. Clairvoyants offered their services to the police for prices ranging from \$8 to \$2,000. One medium claimed to have received instructions from Andrew Borden himself. Another self-proclaimed detective told the marshal to examine the eyes of the murder victims, explaining that the last sight they saw remained imprinted on their retinas, plain as day. Clues, theories, and even confessions piled up. Most of them amounted to nothing—like the pond the police had been advised to dredge for the murder weapon, only to find a banana peel tied up in a paper sack—but to placate the public,

Hilliard sent his men chasing down one blind lead after another. He would give the newspapers no chance to say he had left a clue unexamined, no matter how absurd. He had seen enough complaints from the press already.

"You and every other citizen must remember that the newspapers have not given anything near the facts disclosed at the inquest," a red-faced Hilliard complained right back to the reporter who handed him a stack of fifty editorials denouncing the police department's conduct. "I think if you were to publish tomorrow the solid facts in the case and all of them," he told another, "you would find that before night a great many people would suddenly change their minds."

But no one who knew the facts was talking. Not District Attorney Knowlton, not Lawyer Jennings, and certainly not Lizzie Borden. "Under no circumstances will she open her mouth," said the *Fall River Herald*.