

BOOK REVIEWS

WOMEN WHO KILL MEN: California Courts, Gender, and the Press

GORDON MORRIS BAKKEN
AND BRENDA FARRINGTON

Lincoln: University of Nebraska Press, 2009
xi, 272 pp.

In *Women Who Kill Men*, the authors discuss the interesting cases of a number of women who went on trial for killing men in California, from the late nineteenth century until just before the 1960s. Laura Fair was the defendant in the first of these trials; she had shot Alexander Crittenden to death on a ferry boat in San Francisco Bay in 1870. The last in the series is the sensational case arising out of the death in 1958 of Johnny Stompanato, the thuggish boyfriend of Lana Turner, the movie star. Cheryl Crane, Lana's daughter, killed him, supposedly to protect her mother.

Each of the cases has its own fascination. The authors try to use these cases to examine changing gender roles and changing norms in society. And, indeed, trials of women for killing men do have a special interest. For one thing, they are comparatively rare. Most killers are men; and so are most of their victims. Women rarely kill; and they kill in ways and under circumstances that differentiate them sharply from men who commit homicide. Women, for example, do not kill in barroom brawls. They do not kill in the course of armed robbery. When they kill, they almost always do so in the context of intimate relationships. Some women do kill for money — but it is usually family money. Gertrude Gibbons was accused of poisoning her husband in 1918; according to the prosecution, she did the bloody deed in order to collect an insurance policy (and also to “get rid of an invalid,” p. 72). A grand jury failed to indict her.

Gertrude Gibbons escaped trial. Others of the women defendants were acquitted; or, if convicted, won their case on appeal. Other studies, in other jurisdictions, have confirmed the impression that women defendants had a better chance at trial than men. These studies have shown that judges and juries were often quite sympathetic to women accused of murder in the late nineteenth and early twentieth centuries. Today, we hear a great deal about the battered woman syndrome. From a formal and doctrinal standpoint, this defense has emerged fairly recently. But some juries, long before the development of this doctrine, seemed willing to give a good deal of slack to women who killed abusive husbands or lovers. Bakken and Farrington point to a number of instances in which women “resorted to murder to defend themselves and family members,” and in which juries “judged these defendants’ actions as justifiable homicide” (p. 78).

The cases described in this book were chosen in part because they were quite sensational; they were the stuff of front page news. What is it that makes a crime and its punishment sensational?: There are, in fact, quite a few reasons. The simplest reason is that the public is attracted to the lurid, and cases that appeal to the rather prurient interests of the public are extremely likely to make headlines. The public, particularly in the last few generations, has an almost morbid curiosity about the lifestyles of the rich and famous. Trials become media events when they

seem to open a window into the world of prominent people — especially Hollywood stars — and which expose a world that is both glittering and morally repellent at once. This was true of the notorious trials of Roscoe (“Fatty”) Arbuckle in the 1930s; and it was true in the case of Lana Turner and her daughter. The media, to be sure, play an important role in the process of creating sensational news; and in publicizing and magnifying headline trials. The newspapers, and later television, greatly expanded the salience of many of these trials. The swarms of reporters who infested the trials of Dr. Sam Sheppard and O. J. Simpson, certainly contributed to the notoriety of these cases. The O. J. Simpson case was televised, which brought it to the attention of millions of people. The media do not and cannot invent these headline cases and headline trials; but they are clearly responsible for inflating their importance.

Another factor may be particularly salient in trials of women for murder. Such trials sometimes tested norms and ideas about gender roles. Well into the twentieth century, the conventional picture of respectable women was completely inconsistent with any notion that such women could be murderers. Murder was not, supposedly, in their nature. If they killed, there must have been a good reason. Of course, prosecutors tended to take a quite different view; they tended to describe the women in much less glowing terms. In the trial of Laura Fair, the prosecution described her as “an immoral seductress, a money-hungry opportunist, and an exploiter of male weakness.” The defense argued that Laura suffered “maniacal spells due to delayed menstruation”; that this “female complaint” led to an “irresistible impulse to kill” (p. 19). The jury found her guilty. She appealed, and won a new trial. At this second trial, in 1872, a jury found her “not guilty by reason of insanity” (p. 37).

Perhaps the most famous criminal trial (other than political trials) in American history was the trial of a woman: Lizzie Borden. This was the sensation of the 1890s. It has given rise to an enormous literature; not many criminal trials have provided the inspiration for an opera and a ballet. Lizzie Borden was accused of murdering her father and stepmother, quite brutally, with an axe. The Bordens were leading citizens of Fall River, Massachusetts. Lizzie was unmarried, in her 30s — the very picture of a respectable, upper middle-class, church-going woman. There

was considerable evidence against her. But the jury acquitted her. The twelve men in the box apparently could not imagine that a woman of her stamp could be in fact a savage killer, someone capable of bashing in her own father's head with an axe.

Arguably, then, in the trial of Lizzie Borden, it was not just one woman who was on trial, but well-to-do women in general, or, perhaps bourgeois society itself was on trial. The case would tap into quite different norms, concepts, and intuitions today; and the trial might have come out differently. Bakken and Farrington, as we said, try to use these cases as examples of the way norms and ideas (mostly about women and crime) have changed in California during the period they studied. No doubt these norms and ideas are still evolving.

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TESTIMONIOS: Early California through the Eyes of Women, 1815–1848

TRANSLATED WITH INTRODUCTION AND COMMENTARY
BY ROSE MARIE BEEBE AND ROBERT M. SENKEWICZ

Berkeley: Heyday Books, 2006
xxxvii, 470 pp.

The authors translated interviews of thirteen women done in the nineteenth century that provide historians of California with a gendered window into Mexican society and law. The periodization is important because far too much of our knowledge of early California is burdened with class and culture. Further, the authors point out that the documents were “marred by actual mistranslations.” In returning to the original transcripts of the interviews, the authors found “that sentences, even entire paragraphs, of the women’s words have been left out of some English translations” (p. xxxi). The authors have translated from the original interviews and, most importantly, given readers a precise explanation of the methodology of the interviewers and their personal

histories. Clearly, cultural bias had infiltrated the process in the nineteenth century.

What was on the minds of these women? Crime was a significant aspect of life. Rosalía de Leese remembered on June 27, 1874, “Frémont and his ring of thieves were in Sonoma, robberies were very common” (p. 29). Teresa de la Guerra de Hartnell reflected on March 12, 1875 that the Americans were not the only enemy deviants; Mexican “governors and officials . . . were men of very bad principles . . . very bad individuals . . . cowards and bad people” (p. 62). Catarina Avila de Ríos remembered on June 20, 1877, “three or four Irishmen . . . murdered the children with the hatchet while they were sleeping . . . and killed a black man who worked as a cook” (pp. 90-1). Angustias de la Guerra told Thomas Savage in 1878 that around 1829 “a ship from Mexico arrived in Santa Bárbara with two hundred or more men. All of them were convicts and the majority of them had committed very serious crimes” (p. 213). She also thought Mexican “soldiers were consummate thieves who committed all sorts of crimes every day” (p. 259).

Women also reflected upon land titles. Dorotea Valdez of Monterey on June 27, 1874 looked to the future, saying that “as soon as the railroad begins to operate, many foreigners will come to settle here. Rest assured, that is when Señor Jacks will receive the punishment he deserves. All we want is for some clever lawyer to take the pueblo land away from him” (p. 38). The Mexicans of Monterey were convinced that David Jacks had stolen their pueblo lands from them. Valdez gave a reason: “This is land that nobody had the right to give away, because it rightfully belongs to every man, woman, and child who was born in our town” (p. 38). Jacks had constructed fences to keep Mexican cattle and horses off his land and was “a natural-born enemy” (p. 38). Linda Heidenreich’s *This Land Was Mexican Once: Histories of Resistance from Northern California* (2007) recounted similar tales of stolen lands, mostly in Napa. Rosaura Sanchez’s *Telling Identities: The California Testimonios* (1995) gave the oral histories gendered, ideological, and protonational interpretations. As we know from Gordon Morris Bakken’s *The Development of Law in Frontier California: Civil Law and Society, 1850–1890* (1985) David Jacks successfully defended his title and encroachments on his pueblo lands.

The bulk of remembrances regarding land focused on American lawyers, bankers, and squatters stealing Mexican land. Yet María Antonia Rodríguez saw it in a world history context. “[S]he replied that though the Americans had taken away from her nearly the whole of her lands, she had no grudge against them — for, she said, ‘It is the law of nature that the poor should steal from the rich. We Californians in 1846 owned every inch of soil in this country, and our conquerors took away from us the greater part. The same thing, I suppose, has happened over and over again in every conquered nation’” (pp. 45-6). She was not a victim as so many others remembered themselves.

This volume is an outstanding contribution to California legal history, providing researchers with correctly translated oral histories. The authors must be commended for taking on such a daunting task.

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*WATER AND THE WEST:
The Colorado River Compact and the
Politics of Water in the American West*

NORRIS HUNDLEY, JR.

Berkeley: University of California Press, 2nd. ed., 2009
xv, 415 pp., bibl., index, maps, notes.

The most important stream in the American West, the Colorado River flows through or past parts of seven states (Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming), as well as a small portion of Mexico, before its depleted flows drain into the Gulf of California. The Colorado is not the largest river in the United States in terms of volume (it ranks sixth), but the Colorado provides life-giving water to much of the southwest quarter of the United States, sustaining a significant amount of the area’s economy as well as generating hydroelectric power for the nation’s energy grid. Thus, the Colorado River has

— and has had — an enormous impact on the United States that goes well beyond the river's regional geography.

Norris Hundley's *Water and the West* traces the history of that influence, particularly the struggles over the Colorado's water supplies — conflicts that continue to this day. This is the second edition of Hundley's book, the first having been published in 1975. Nonetheless, this book is still essential reading for water planners, lawyers, environmentalists, historians, and others concerned with water in the American West. Indeed, copies of the first edition of this book appear outside academic libraries on the shelves of countless attorneys and government officials throughout the entire American West.

And for good reason. Hundley's book surveys the history of the "Law of the River" — the legislation, regulations, court decisions, and administrative rulings that have shaped the uses of the Colorado River over the past century and a half — all of which clearly show that water allocation and control issues involving the Colorado were highly complex and involved multitudes of interested parties at all levels of government as well as in business and other aspects of society as a whole. Hundley begins with a review of late nineteenth- and early twentieth-century attempts to control the highly irregular and erratic flows of this stream to supply nascent irrigation communities and speculative land development schemes in southern California, and he carefully documents how what initially was a localized water question evolved into a regional contest of enormous consequences over how the Colorado River would be tamed and simultaneously allocated among the seven basin states. It is this part of the story that occupies most of Hundley's narrative. Here, he demonstrates how the newly formed Reclamation Service and growing demands for water supplies up and down the Colorado River, as well as increasing needs for hydroelectric power, laid the foundation for the negotiation of the Colorado River Compact of 1922 — the first such use of the Constitution's authorization for states to form agreements among themselves to solve any interstate water conflict. Hundley carries the narrative through the long and difficult attempts to have that accord ratified by the seven Colorado River Basin states, the 1928 Boulder Canyon Act (which authorized the construction of Hoover Dam), and the

interstate litigation between Arizona and California over the following few decades leading to the U.S. Supreme Court's landmark 1963 decision in *Arizona v. California*, which, according to the Court, established that Congress had intended to apportion the stream when the federal legislators had passed the Boulder Canyon Act.

For the second edition of *Water and the West*, Hundley has brought the Colorado River history down to the present by offering a lengthy epilogue on various issues now affecting the stream. These include: how modern water measurement techniques (notably tree-ring analysis) have shown that the original assumptions about the Colorado's flows were probably overestimated; how global warming and greenhouse gases are affecting (and will continue to affect) water use and control; how more recent water-conservation attitudes will play a role in future Colorado River planning; how concerns over wildlife have become more influential on water allocation; and how recognizing Native American interests in water and the environment will play a major role in future Colorado River planning.

Most notably, however, Hundley's book remains fundamentally the bedrock foundation to understanding the background to Colorado River water issues as well as the multitude of forces shaping water use and control. This is due to Hundley's thorough grasp of documentary sources relating to his topic as well as to his careful footnoting and attention to detail in organization and writing. This is an exceptional book. It should continue to be at the top of anyone's list who truly wants to grasp the complexities of water and the American West.

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