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in the Humanities & Social Sciences

A. Cheree Carlson. *The Crimes of Womanhood: Defining Femininity in a Court of Law.* Urbana: University of Illinois Press, 2009. 189 pp. $40.00 (cloth), ISBN 978-0-252-03401-5.

Reviewed by Tamar W. Carroll (Cornell University)
Published on H-Law (July, 2009)
Commissioned by Michael J. Pfeifer

Gendered Rhetoric in the Victorian-era American Courtroom

In this interesting book, Carlson analyzes six highly publicized trials involving women defendants or principals in the late nineteenth- and early twentieth-century United States. Several of the cases remain well known today: the 1892 trial of Lizzie Andrew Borden, accused of murdering her father and stepmother; the multiple trials from 1840 to 1878 of Ann Trow Lohman, better known as the abortionist Madame Restell; and the 1925 *Rhinelander v. Rhinelander* case in which a wealthy white man sued his wife for fraud for failing to disclose her "colored" race prior to their marriage.

The other cases, those of Elizabeth Parsons Ware Packard (1864), Mary Harris (1865), and Mary Todd Lincoln (1875), all involved questions of mental competency. Packard and Lincoln were both committed by male guardians to psychiatric hospitals against their will; juries eventually ruled that they were not insane and released them from their confinement. Harris shot and killed the man who had led her to believe they were to be married and then abandoned her for another woman. Harris was found not guilty by the jury, who believed her lawyer's claim that Harris was suffering from insanity brought on by emotional distress and menstrual disorder at the time of the murder. These courtroom dramas unfolded as the legal and medical professions sought to establish professional legitimacy and battled for authority to define criminal insanity.

Carlson notes that both women's legal status as dependents upon fathers, husbands, or other male guardians, and popular beliefs about women's tendency toward mental instability left women particularly vulnerable to charges of mental incompetency, and to involuntary institutionalization for mental illness. While these gender stereotypes disadvantaged women as a class in the nineteenth century, in several of these cases, lawyers successfully manipulated Victorian understandings of womanhood to their client's benefit. Carlson shows how the lawyers involved in all six cases drew upon and sometimes, transformed, popular understandings of gender, as well as those of race and class, in order to create compelling narratives to persuade the jury, the media, and the public at large of the validity of their clients' claims.

Carlson selected these six cases precisely because they make for such good storytelling; however, she also deserves much credit for her engaging, informative, and concise accounts of these complicated trials. I particularly enjoyed learning about Elizabeth Parsons Ware Packard, a Presbyterian minister's wife who drew her husband's ire when she took up Swedenborgianism, a mystical philosophy "at odds with traditional Christianity," and tried to convert to Methodism, more amenable to her newfound spiritual beliefs (p. 24). Before she could do so, Rev. Packer had her confined in the "maniac" ward of the Illinois State Hospital, where she remained until the superintendent released her three years later, complaining of her incorrigibility. Upon her release, her husband took away Packard's clothes and locked his unrepentant wife in the nursery of their house; she managed to slide a note out the window frame to a neighbor, who sought judicial intervention.

The presiding judge decided the issue at hand was Elizabeth Packard's sanity and granted her a trial which ended in the jury declaring Packard sane, overturning the opinion of the medical psychiatrists hired by her husband. Carson reads the trial as a ruling on Packard's character as a woman, with her accusers highlighting her intemperate, disobedient nature and puzzling behavior. By providing context for Elizabeth's acts, however, the defense showed her to be a loving mother and a good housekeeper, albeit not always an obedient wife. On the other hand, her husband had not treated her well, and so, Carson writes, the jury accepted the defense's story that although Elizabeth had violated the norms of feminine behavior, she had done so "with good reason" and was

not suffering from mental illness (p. 36). In following years, Elizabeth Packard went on to become a champion of the rights of mental patients, and in 1867, influenced the Illinois state legislature to guarantee all patients the right to a pre-commitment trial.

Just as in the Packard trial, the character of each of the women protagonists became the overriding issue in each of the cases under study. Carlson contends that the rhetorical arguments put forth in the course of these highly publicized trials acted as tests of public attitudes toward women more broadly; thus her reading of the trials can contribute to historical assessments of women's agency in the nineteenth century. In this way, she sees her work engaging in dialogue with historians of women in the nineteenth century United States, in particular Barbara Welter's seminal 1966 article "The Cult of True Womanhood," which argued that nineteenth-century religious texts and popular literature constructed an influential and constraining ideology of femininity based on piety, purity, submissiveness, and domesticity.[1] In contrast to Michael Grossberg, whose detailed study of family law in the nineteenth century emphasized women's enhanced legal independence and charted changing ideologies of family and gender across the century, Carlson presents both women's legal status and attitudes toward women and femininity as relatively static; she even sees the ideology of True Womanhood at work, albeit stretched to apply to a working-class woman of mixed racial ancestry, in the 1925 Rhinelander case.[2]

Carlson misses the opportunity to engage with more recent historical works on women and the law in the nineteenth century, such as Regina Morantz-Sanchez's *Conduct Unbecoming a Woman: Medicine on Trial in Turn-of-the-Century Brooklyn*, a study of the manslaughter and libel trials of the female gynecologist Mary Dixon-Jones which shares Carlson's interest in reading sensational public trials as narratives and using them as a lens to uncover gendered norms of behavior. Unlike Morantz-Sanchez's work, which is a detailed reconstruction of the two trials involving Dixon-Jones, Carlson covers six trials in a relatively slim volume; thus she is unable to provide the deep contextualization that makes Morantz-Sanchez's work so satisfying. Moreover, in contrast to Morantz-Sanchez, who offers multiple readings of the many narratives at work in the Dixon-Jones trials, Carlson provides a single reading of each trial, leaving the reader to wonder what other alternative readings existed, especially as the popular press picked up and likely transformed the courtroom narratives for the reading public.[3]

Carlson's assessment of the legacy of these cases is brief and not entirely persuasive. For example, Carlson reads the *Rhinelander* verdict as "heartening" because the jury viewed Alice Rhinelander's violated womanhood as more important than any damage done to her husband's whiteness; she concludes that the case "significantly reduced" the salience of racial categories, even as it upheld stereotypical understandings of femininity (p. 154). More convincing is Angela Onwuachi-Willig's analysis of the *Rhinelander* case, which situates it within a history of longstanding bias against interracial marriages in the United States and dispels the notion that the case represented a victory over racism, or that it was possible for the jury to separate Alice Rhinelander's racial and gender identities. Rather, Onwauchi-Willig writes, the jury likely found in Alice's favor because her behavior, including premarital sex, was consistent with existing cultural understandings of stereotyped, highly sexualized black womanhood, while Leonard's actions, tantamount to betraying his race, did not make sense within their expectations of upper-class white male behavior.[4]

Carlson is a professor of communication at Arizona State University, where she is also an affiliate of the Women's Studies Program, and her primary research interest is the study of rhetoric. She draws heavily throughout on the insights of philosopher Kenneth Burke regarding humankind's use of symbols in language, and specifically applies his concepts of bridging device, frames, dramatistic pentad, and representative anecdote to her reading of the trial transcripts and news coverage of the trials. For the non-specialist, Carlson's use of technical language distracts from an otherwise well-written book. Also, because Carlson's methodology consists solely of Burkian readings of the six trials, her extrapolations to broader generalizations about attitudes towards women and gender are less convincing than her close analysis of the trials, which she supports with abundant evidence. Ultimately, because of its methodology, *The Crimes of Womanhood* will be of most value to its intended audience, specialists in rhetoric and communication studies. Although the technical language makes it unsuitable for most undergraduate history or women's studies courses, historians of women and law in the nineteenth century will also find these case studies provocative.

Notes

[1]. Barbara Welter, "The Cult of True Womanhood: 1820-1860," *American Quarterly* 18, no. 2 (1966): 151-174.

[2]. Michael Grossberg, *Governing the Hearth: Law*

and the Family in Nineteenth-Century America (Chapel Hill: University of North Carolina Press, 1985). For women's legal status and attitudes toward women and gender in earlier U.S. history, see Cornelia Hughes Dayton, *Women Before the Bar: Gender, Law and Society in Connecticut, 1639-1789* (Chapel Hill: University of North Carolina Press, 1995).

[3]. Regina Morantz-Sanchez, *Conduct Unbecoming a Woman: Medicine on Trial in Turn-of-the Century Brooklyn* (New York: Oxford University Press, 1999). Another infamous late nineteenth-century trial focused on gender and sexuality is analyzed in Helen Lefkowitz Horowitz, "Victoria Woodhull, Anthony Comstock, and Conflict over Sex in the United States in the 1870s," *Journal of American History* 87, no. 2 (2000): 403-434. Also of interest is a recent study drawing on both literary representations and actual trials to trace changes in attitudes toward women and crime in Britain in the eighteenth and nineteenth centuries, Nicola Lacey, *Women, Crime and Character from Moll Flanders to Tess of the D'Ubervilles* (New York: Oxford University Press, 2008).

[4]. Angela Onwuachi-Willig, "A Beautiful Lie: Exploring *Rhinelander v. Rhinelander* as a Formative Lesson on Race, Identity, Marriage and Family," *California Law Review* 95 (2007), University of Iowa Legal Studies Research Paper No. 07-27. Available at SSRN: http://ssrn.com/abstract=1017096. See also Earl Lewis and Heidi Ardizzone, *Love on Trial: An American Scandal in Black and White* (New York: W. W. Norton & Co., 2001). For the history of miscegenation and the policing and punishment of interracial marriages, see Rachel Moran, *Interracial Intimacy: The Regulation of Race and Romance* (Chicago: University of Chicago, 2001); and Peggy Pascoe, *What Comes Naturally: Miscegenation Law and the Making of Race in America* (New York: Oxford University Press, 2009).

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Citation: Tamar W. Carroll. Review of Carlson, A. Cheree, *The Crimes of Womanhood: Defining Femininity in a Court of Law.* H-Law, H-Net Reviews. July, 2009.
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