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The Trials of Israel Lipski

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THE TRIALS OF ISRAEL LIPSKI. By *Martin L. Friedland*. New York: Beaufort Books. 1984. Pp. 219. \$14.95.

On Monday, August 21, 1887, at precisely three minutes past eight in the morning, Israel Lipski fell a distance of eight feet. An instant later, his downward progress was halted by a length of three-quarter inch Italian hemp rope. Thirteen minutes after that his heart beat for the last time. Israel Lipski had been hanged for the murder of Miriam Angel. Nearly three months earlier, she had been found dead in her bedroom, nitric acid poured down her throat. The story of Israel Lipski, and how he came to be hanged in the yard of Newgate Prison, is the subject of Martin L. Friedland's¹ *The Trials of Israel Lipski*.

As he states in the preface, Professor Friedland uses the extreme example presented by the story of the murder, the trial, and the effort to gain a reprieve for Israel Lipski as a vehicle for analyzing and explaining how extrinsic factors influence the criminal process. He discusses the historical context, the press, the judge, the government, public opinion, and racial prejudice, and evaluates how each of these forces affected Lipski's trial. In doing so, he reveals a great deal about the forces themselves, shedding light on the history of anti-semitism, the power of the press, the history of the criminal law, and its great historian and the judge in the Lipski case, Mr. Justice James Fitzjames Stephen.

Professor Friedland begins his story at approximately eleven o'clock on the morning of Tuesday, June 28, 1887. Mrs. Dinah Angel called at number sixteen Batty Street in the East End of London in search of her daughter-in-law, who customarily joined her for breakfast each day before nine o'clock. Together with the landlady and one of the tenants, she went to the room occupied by Miriam and Isaac Angel. They burst through the apparently locked door and found Miriam Angel, who was six months pregnant, lying in an unnatural position on the bed with a frothy yellow substance coming from her mouth. The landlady summoned a doctor, who declared Miriam Angel dead, killed by a dose of corrosive poison poured down her throat. While searching for a bottle, the doctor and others discovered Israel Lipski, a Polish-Jewish immigrant, beneath the bed. He was unconscious and had acid burns in his mouth. Lipski was revived, taken to a police station, and then to a hospital.

That evening Israel Lipski told his story to the police. He claimed he was innocent, and that the murder had been committed by Rosenbloom and Schmuß, two workmen who had come to assist Lipski in

1. Martin L. Friedland is a Professor of Law, and former Dean, at the University of Toronto. He is the author of several books in the criminal law area.

the walking stick workshop he had opened that day. According to Lipski, he had just returned from trying to buy a vice when Rosenbloom and Schmuß grabbed him by the throat, threw him to the ground, and forced acid into his mouth. They then demanded his gold watch chain, saying, "If you don't give it to us you will be as dead as the woman" (p. 21). After further struggle they threw him under the bed and left him for dead.

The authorities did not believe Lipski's story. His trial for "wilful murder" convened Friday, July 29, at the Old Bailey, Mr. Justice Stephen presiding. Professor Friedland brings to life the Lipski trial and the events surrounding it with material gleaned from newspapers, letters, memoirs, the judge's notes, government reports, and the Home Office files. Generous quotation from the trial transcript puts the reader inside the courtroom, and use of Stephen's many letters puts the reader inside the judge's head. Professor Friedland uses these sources to reveal the impact that various items of evidence had on the judge, and the effect he in turn had on the jury. *The Trials of Israel Lipski* presents a powerful example of the extensive influence that a judge can have on a criminal jury. Early on, Mr. Justice Stephen became convinced that the murder was a crime of passion and that Lipski was the culprit. His final statement was a virtual invitation to the jury to convict, which it did just eight minutes after it retired.

With Lipski's conviction came the effort to gain a reprieve for him. Israel Lipski became something of a *cause célèbre* for certain newspapers, notably the *Pall Mall Gazette*. Petitions in favor of the condemned man containing several thousand signatures were presented to the Home Secretary (p. 117). Lipski's solicitor, John Hayward, sent a telegram to Queen Victoria proclaiming his client's absolute innocence. On the front page of the *New York Times* a story commented that London was "far more engrossed in the case of Israel Lipski than with the fate of the government" (p. 11). Professor Friedland skillfully links the pressure of public opinion to the officials who were to decide Lipski's fate. He does this by presenting the reader with personal and business correspondence that demonstrates the doubts that Lipski's advocates in the press raised in the minds of those in the Home Office, and of Mr. Justice Stephen himself. As such, *The Trials of Israel Lipski* ranks with the literature on *Regina v. Dudley and Stephens*² for insight into the political mechanism for deciding whether to grant a reprieve,³ now largely replaced by a system of appellate

2. 14 Q.B.D. 273 (1884).

3. A.W.B. SIMPSON, CANNIBALISM AND THE COMMON LAW: THE STORY OF THE TRAGIC LAST VOYAGE OF THE *MIGNONETTE* AND THE STRANGE LEGAL PROCEEDINGS TO WHICH IT GAVE RISE (1984) (reviewed at 83 MICH. L. REV. 702 (1985)); Simpson, *Cannibals at Common Law*, 77 U. CHI. LAW SCHOOL REC. 3 (1981); Note, *In Warm Blood: Some Historical and Procedural Aspects of Regina v. Dudley and Stephens*, 34 U. CHI. L. REV. 387 (1967).

courts.⁴

Throughout the book Professor Friedland reveals considerable knowledge of the workings of the British government and the subtleties of nineteenth-century British criminal procedure. At one point he explains how the power to reprieve shifted from the Sovereign and came to be vested in the Home Secretary: “[W]hen Queen Victoria came to the throne, the practice changed because, to quote from Stephen’s own *History of the Criminal Law of England*, ‘it would have been indecent and practically impossible to discuss with a woman the details of many crimes then capital’ ” (p. 104). He also explains the niceties of such practices as allowing an accused to make an unsworn statement from the dock prior to his counsel’s closing address — but not allowing him to testify under oath (p. 96), interference by British judges in the questioning of witnesses (p. 45), and the “long drop” method of hanging (p. 177).

Professor Friedland’s expertise in nineteenth-century criminal procedure is matched by his skill as a researcher and as a storyteller. He has uncovered firsthand accounts that take the reader behind closed doors and bring to life the events of Lipski’s story. A fine example of this comes near the end of the book with the execution. Professor Friedland draws on several newspaper accounts and on a biography of the hangman, James Berry (p. 177), to recreate the condemned man’s final journey. He describes the bells of St. Sepulchre’s Church, the various officials in their robes, and the ancient Hebrew prayers uttered by Lipski and Rabbi Simeon Singer as they slowly marched toward the scaffold. After reading Professor Friedland’s account of the pathos and solemnity of the ceremony it is not surprising to learn that Berry later swore he would never hang another Jew (p. 179).

Professor Friedland analyzes the evidence like any good criminal lawyer. He evaluates the various suggested motives, the plausibility of Lipski’s story, and the strength of the Crown’s case. Although the controversy surrounding Lipski persisted after his death, and a few people continued to believe that Israel Lipski went to the gallows an innocent man, the reader never discovers whether Professor Friedland agrees. He comes to no conclusion as to the ultimate question of guilt, for in the end no conclusion is possible. The story of Israel Lipski was, and will remain, a mystery, and a fascinating vehicle for studying the criminal law.

The Trials of Israel Lipski is an outstanding achievement. Only the final chapter is open to criticism. There, Professor Friedland attempts to tie up loose ends, and in the process discusses several matters of only peripheral importance. Although not irrelevant to the Lipski

4. It was not until 1907, with the Criminal Appeal Act, 1907, 7 Edw. 7, ch. 23, that Parliament created a court of criminal appeal. Before that Act criminal convictions were very rarely reviewed by a court, and then only on narrow legal grounds.

case, their discussion disrupts somewhat the continuity of an otherwise seamless book. *The Trials of Israel Lipski* is a scholarly book that demonstrates how extrinsic factors can affect a criminal trial, yet it is a book that reads like a mystery novel. Although he goes into considerable detail, and incorporates a large amount of research, Friedland manages to avoid getting bogged down in minutiae. Professor Friedland has made a valuable addition to the history of the criminal law with *The Trials of Israel Lipski*.

— *Blaine G. Renfert*