

## *The Boorn Brothers*

VERMONT

THE Boorn children did not conduct themselves with the requisite sobriety and dignity to satisfy the standard of propriety firmly established and adhered to in 1812 Manchester, Vermont. They were three—Jesse, Stephen, and Sally—and to the austere Yankee folk of Manchester they were a little wild and somewhat reckless.

Sally married Russel Colvin, and from all accounts it seems that Russel was not distinguished for his intellectual accomplishments; in fact it was said in some quarters that he was slightly feeble-minded. It was generally agreed that he was eccentric, and in this respect he was noted particularly for his habit of suddenly disappearing, to be gone as much as eight or nine months at a time. On several of these periodic excursions he took his favorite infant son, carrying the child on his back.

So when Russel disappeared in May, 1812, no one thought it strange, and practically no one was interested in his peregrinations. Sally was away on a visit when her husband disappeared. When she came home she asked her father and brothers where he had gone. No one could give a satisfactory answer.

It seems that there had been a serious quarrel in the family immediately before Russel disappeared. Lewis, one of Russel's children, had been present and said later that his Uncle Stephen had threatened to kill him if he should mention the quarrel.

Knowledge of the disagreement came through the statements of Thomas Johnson, who had bought the old Boorn place before Russel disappeared. Johnson said that he had been crossing a field the day Russel vanished and saw Jesse, Stephen, Russel, and young Lewis, Russel's son, engaged in a heated quarrel. Johnson did not interfere, he said, but went on; and when he returned later the group was still there, but their tempers seemed to have subsided somewhat. That was the last Johnson saw of Russel.

It was known, before this argument, that ill feeling ex-

isted between the Boorn boys and Colvin. But no one ever took it seriously, and a possible connection between this enmity and Russel's disappearance was not suspected. As weeks passed, however, and one aspect after another of the case provided material for town gossip, the villagers began to entertain pointed suspicions. People began to recall certain peculiar remarks they had heard the Boorn boys, or members of the family, make from time to time concerning the missing Colvin. Someone said he had heard one of the boys say that Colvin was dead; another reported that one of the boys stated that they "had put him where potatoes would not freeze." So the suspicious began to look warily upon Jesse and Stephen.

Finally, Thomas Johnson's children came home one afternoon with an old dilapidated hat they found in the field near the Boorn place. Johnson recognized it as the hat he had seen on Colvin the day of the argument in the field.

Time was passing. Almost seven years had now elapsed since Colvin had disappeared.

In the spring of 1819 occurred one of the most remarkable incidents in the strange case. Amos Boorn had a dream. Uncle Amos was an old man. He seems to have followed the case with interest, and it had, of course, made a great impression upon his mind. In the dream, Russel Colvin appeared at Uncle Amos' bedside. He told the old man that he had been murdered and said that if Uncle Amos followed him he would show him where he had been buried. The tomb was described as an old cellar hole, about four feet square, over which a house had stood. Three times the dream was repeated, and Uncle Amos described the visions as they had taken place. Here, then, said the superstitious, was proof incontrovertible that Colvin had been slain. The more practical may have been impressed, but they were not convinced until another coincidence brought them confidently into the camp of the superstitious, certain that murder had been done.

Fire destroyed an old barn on the Boorn place. The embers were hardly cold before it was gossiped that perhaps the barn had been burned to conceal evidence of Colvin's

murder. Then came the third and final incident in the remarkable chain that was growing tighter and tighter about Jesse and Stephen.

A lad and his dog were walking near the Boorn place one day, when the dog stopped and began digging furiously into the earth under an old stump. Bones were unearthed and summarily pronounced human. The patience of the community snapped and action was demanded. Truman Hill, grand juror of Manchester, responded. On April 27, 1819, nearly seven years after Colvin disappeared, Jesse Boorn was arrested and brought before the Justice of the Peace for examination.

The examination lasted from Tuesday until Saturday. During this time the community was searched for evidence. The old cellar hole of which Uncle Amos dreamed was opened and disclosed a large knife, a penknife, and a button. The button was of peculiar style, with a flower design in the center. This and the penknife were identified as Colvin's. No one knew who owned the big knife. The bones from beneath the stump, when compared with an amputated leg imported from a nearby community, were found not to be human bones. This decision threatened to end the investigation, and it would probably have been dropped but for the fact that on Saturday, Jesse Boorn charged his brother, Stephen, with the murder. Jesse then repeated what he said was the story Stephen had told him.

It was to the effect that Stephen and Russel were working in the "Glazier lot" and got into a quarrel. Stephen struck Colvin with a club and fractured his skull. Jesse said he did not know what had been done with the body, but he mentioned several places where it might possibly be found.

The next day—Sunday—people turned out for miles around in great excitement to search for Colvin's remains. Cellar holes were opened up, stumps overturned, and the hillsides scrutinized carefully. Nothing was found.

On Monday a warrant was issued for Stephen's arrest. He had gone to New York some time before this, and Grand Juror Hill, with Samuel Raymond, started for New York to arrest him. He was located easily, and on the way back

his captors urged him to confess. He was told that the evidence was strong enough to bring conviction, but he continued to protest his innocence. The examination was continued on May 15, when the three got back from New York. Stephen and Jesse were brought face to face, and still Stephen denied that he was guilty.

In jail with the brothers was one Silas Merrill, a forger. When the Grand Jury met in September, Merrill was presented as the chief witness against the suspects. Merrill told a colorful story. He said Jesse had confessed to him in jail that Stephen and Colvin had had a fight; that Stephen struck Colvin but the blow did not kill him; that later Jesse and Stephen, assisted by their father, Barney Boorn, carried Colvin, who was still unconscious, to the old cellar, where Barney Boorn cut his throat, after which he was buried there. Merrill said Jesse told him that about eighteen months later he and his brother dug up the remains and took the bones to the old barn which had burned. After the barn was destroyed, some of the bones were again gathered up, pounded into dust, and thrown into the river. Others had been picked up by Barney Boorn and hidden in a hollow stump.

Needless to say the jury was impressed by this gruesome recital. And it did not suffer from attempts of the defense to break it down by showing that Merrill had been promised leniency if he would tell it in court. (After telling the story he was allowed freedom to roam about the town.)

The defense also pointed out that this so-called confession did not corroborate the one made by Jesse after he had been arrested in May.

Still another "confession" was to be made before the case was settled. Before the trial started in November, the town was once more thrown into a furor when it was learned that Stephen admitted his guilt and blamed Colvin for initiating the fatal quarrel. Stephen did not implicate his father or Jesse. He told of the fight with Colvin and how he was killed. He said he hid the body under some bushes in a fence corner and returned after dark to bury the corpse, not in the cellar, but near it. He told how he later removed the bones to the

old barn, and how, after the barn burned down, he threw some of them into the river and put others in the old stump. He did not, however, mention powdering them.

The trial was held in the Congregational Church, as the court room was too small to accommodate the great number of people who wanted to attend the proceedings. The full bench of the Supreme Court sat as then required in capital cases.

The court heard most of the story told in the preceding pages, and Stephen's confession was introduced to discredit Merrill's story.

Despite the ability of the defense attorneys—Richard Skinner, former Justice of the Supreme Court; Leonard Sargeant, afterward Lieutenant-Governor; and Mr. Wellman—the jury returned a verdict of guilty and the Boorn brothers were sentenced to hang on January 28, 1820.

AFTER a petition for pardon had been submitted to the Legislature, Jesse's sentence was commuted to life imprisonment. Stephen's plea was denied. It seemed that nothing could be done to save him.

But he was to save himself. In a conversation with Mr. Sargeant one day, he suggested that an advertisement be published in an attempt to locate Colvin. Mr. Sargeant told him that this would do no good if Colvin had been murdered. Stephen protested his innocence and Mr. Sargeant promised to advertise.

A complete description of Colvin was published in the Rutland *Herald*. The article stated that if Colvin could be located, the lives of innocent men could be saved. The article was republished in the New York *Evening Post* of November 29, 1819, and started a series of events as strange as those which had led to the convictions.

The day after the article appeared in the *Post*, it was read aloud in a New York hotel. James Whelpley, a former resident of Manchester, was present. He knew Colvin and told a number of anecdotes about him. Mr. Tabor Chadwick of Shrewsbury, New Jersey, happened to be standing

near by, and the story made a deep impression upon him. It finally occurred to him that a man answering Colvin's description was living with his brother-in-law, William Polhemus, in Dover, New Jersey. Mr. Chadwick wrote the *Post*, saying that the man who lived with his brother-in-law appeared to have once been a resident of Vermont, for he occasionally spoke of Manchester, mentioned the names Boorn, Jesse, etc., and seemed to have considerable knowledge of the town and its people. Mr. Whelpley saw Mr. Chadwick's letter in the *Post* and decided to go to Dover and investigate.

Mr. Polhemus was informed of the mission, and it was agreed that nothing should be said to Colvin until Mr. Whelpley decided whether he recognized him. When Colvin came in from work he looked sharply at Whelpley, but said nothing. Presently Whelpley called him by name. Colvin said there must be some mistake; that Colvin had been his name once, but that he was another man now. By gradually drawing him out, Whelpley became convinced that there was no doubt as to his identity.

Colvin would not consent to go home, however, and only after considerable persuasion would he return to New York with Whelpley. By a ruse Whelpley got him onto a boat bound for Troy. As Troy was not far from Manchester, Colvin finally agreed to return to his old home.

The arrival of Whelpley and Colvin in Manchester was a festive occasion. After Colvin had been greeted by his former friends and neighbors, he and Stephen were brought face to face. Seeing the fetters on his brother-in-law, Colvin asked, "What is that for?"

"Because they say I murdered you," Stephen replied.

"You never hurt me," said Colvin. "Jesse struck me with a briar once, but it did not hurt me much."

When Sally was brought to him, Colvin said merely, "That is all over with," and would have no more to do with her.

To set the brothers free by due process of law, the case was reopened, they were allowed to plead again, and the

state's attorney entered a *nolle prosequi*. In 1820 they petitioned the Legislature for compensation and were refused.

THE Boorn case is included in this collection because it is a classic in American jurisprudence. It was probably not an appropriate case for state indemnity, because the conviction of the two brothers was to some extent brought about by their spurious confessions. What prompted them to do this—except possibly the hope of escaping execution—is hard to say. Possibly seven years under suspicion and accusation had so preyed upon their minds that they were no longer fully accountable for their thoughts or acts.

Essentially the conviction was induced by public superstition and excitability. Colvin's long disappearance, associated with the quarrel with the Boorn boys, and general knowledge that the relations between Colvin and the Boorns were not friendly, served to arouse the credulity of the community and to break down what should have been a normal skepticism induced by Colvin's previous manifestations of *Wanderlust*. The dream of Amos Boorn served to give exceptional weight to the finding of the bones. When they were proved to be not human, one might have supposed that the suspicion would die. Then Jesse Boorn revived the suspicion by his extraordinary statement that Stephen had confessed murdering Colvin. All the irrelevancies of rumor and fancy were then revived to connect the Boorns with the case; and doubtless to escape execution, Stephen made his confession, though his statements to Jesse differed materially from it, and both contained improbabilities which should have put any court or jury on guard. It seems curious that a state which was willing to spend considerable sums to try to convict a person for an alleged crime committed years before and which at best was an unsolved mystery, should not have been concerned with the expedient of spending a part of the money to advertise for the missing man. Only the imminent fear of the gallows seems to have stimulated Stephen to think of that measure. Even this simple de-

vice, which finally unraveled the mystery, would have failed but for the curious concatenation of circumstances which brought about the reading of the advertisement in a public hotel at which was present a man who had known Colvin, and another who knew where he was employed. The links in the chain which disclosed the truth were as accidental and fortuitous as those which led to the mistaken conviction.

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