CHAPTER XXXI.

District Attorney Knowlton's Plea.

HOSEA M. KNOWLTON, attorney for the State, spoke as follows: May it please your honors, Mr. Foreman and you, gentlemen of the jury—Upon one common ground in this case all human men can stand together. However we may differ about many of the issues in this trial, there can be no doubt, and I do not disguise my full appreciation of the fact, that it is a most heartrending case. Whether we consider the tragedy that we are trying and the circumstances that surround it, the charge that followed it, the necessary course of the trial that has been had before you, the difficult and painful duty of the counsel upon both sides of the case, or the duty that shall finally be committed to your charge, there is that in it all which lacerates the heart strings of humanity. It was an incredible crime, incredible but for the cold and merciful facts which confront and defeat that incredulity.

There is that in the tidings of a murder that thrills the human heart to its depths. When the word passes from lip to lip and from mouth to mouth that a human life has been taken by an assassin, the stoutest hearts stop beating, lips pale and cheeks blanch, strong men grow pale with the terror of the unknown and mysterious, and if that be so with what I may, perhaps, by comparison call an ordinary assassination, what were the feelings that overpowered the community when the news of this tragedy was spread by the lightning to the ends of the world? Nay, gentlemen, I need not ask you to imagine it. You were a part of the community. It came to you in your daily avocations, it sent a thrill through your beings and you felt that life was not secure. Every man turned detective. Every act and fact and thought that occurred to the thousand, to the million men all over the United States, was spread abroad and furnished and given for the identification of the criminal, and still it remained an impenetrable mystery. My distinguished friend says, Who could have done it? The answer would have been, nobody could have done it. If you had read the account of these cold and heartless facts in any tale of

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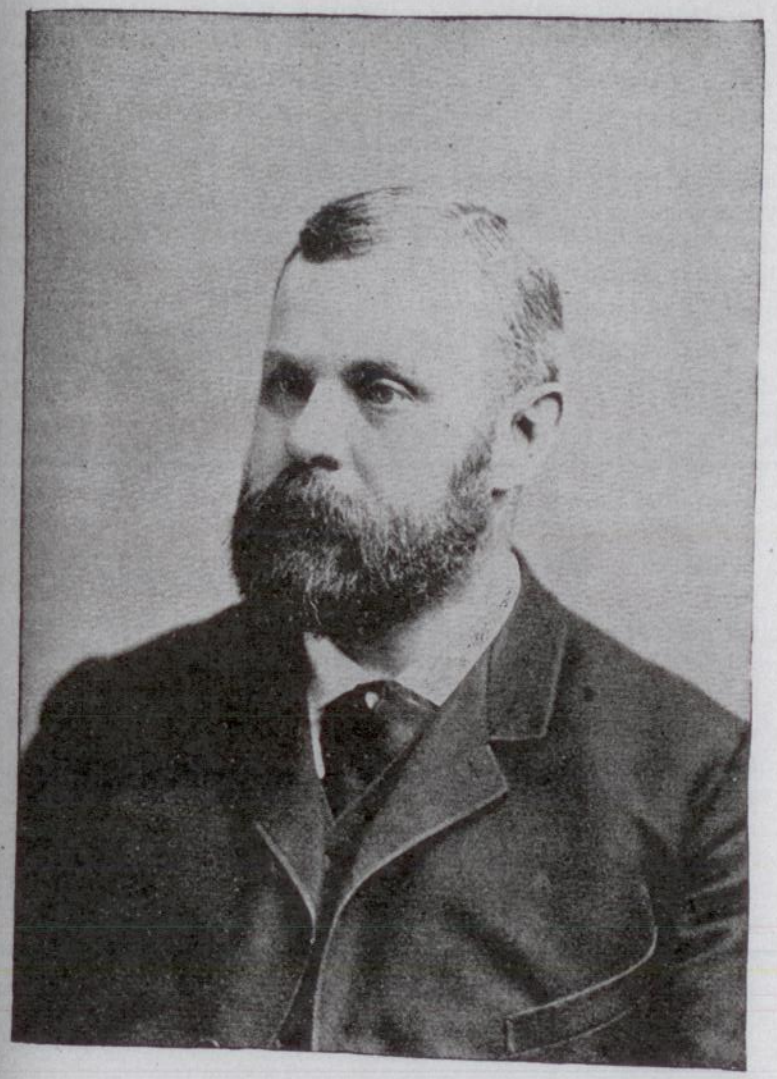
fiction before this thing had happened, would you not have said, Mr. Foreman—you would have said, That will do for a story, but such things never happen.

In the midst of the largest city of this county, in the midst of his household, surrounded by people and houses and teams and civilization, in the midst of the day, right in that household, while they were attending to their household duties in the midst of their families, an aged man and an aged woman are suddenly and brutally assassinated. It was a terrible crime. It is an impossible crime. But it was committed. And very much, very much, Mr. Foreman, of the difficulty of solving this awful tragedy starts from the very impossibility of the thing itself. Set any human being you can think of, put any degraded man or woman you ever heard of at the bar, and say to them, "You did this thing," and it would seem incredible. And yet it was done; it was done. And I am bound to say, Mr. Foreman, and I say it out of a full heart, that it is scarcely more credible to believe the charge that followed the crime. I would not for one moment lose sight of the incredibility of that charge, nor ask you to believe it, unless you find it supported by facts that you cannot explain or deny. The prisoner at the bar is a woman, and a christian woman, as the expression is used. It is no ordinary criminal that we are trying to-day. It is one of the rank of lady, the equal of your wife and mine, of your friends and mine, of whom such things had never been suspected or dreamed before. I hope I may never forget nor in anything that I say here to-day lose sight of the terrible significance of that fact. We are trying a crime that would have been deemed impossible but for the fact that it was, and are charging with the commission of it a woman whom we would have believed incapable of doing it but for the evidence that it is my duty, my painful duty, to call to your attention. But I beg you to observe, Mr. Foreman and gentlemen, that you cannot dispose of the case upon that consideration. Alas, that it is so! But no station in life is a pledge or a security against the commission of crime, and we all know it. Those who are intrusted with the most precious savings of the widow and the orphan, who stand in the community as towers of strength and fidelity, suddenly fall, and their wreck involves the ruin of many happy homes. They were christian men, they were devout men, they were members of some christian church, they had every inducement around them to preserve the lives that they were supposed to be living, and yet, when the crash came, it was found that they were rotten to the core. Nay, Mr. Foreman, those who are installed with

the sacred robes of the church are not exempt from the lot of humanity. Time and again have we been grieved to learn, pained to find, that those who are set up to teach us the way of correct life have been found themselves to be foul as hell inside. Is youth a protection against crime. It is a matter of the history of the commonwealth that a boy of tender years was the most brutal, the most unrelenting, the most cruel, the most fiendish murderer that the commonwealth ever knew. Is sex a protection to crime? Is it not a matter of common knowledge that within the remembrance of every man I am talking to, a woman has been found who murdered a whole cart load of relatives for the sake of obtaining a miserable pittance of a fortune. Ah, gentlemen, I do not underestimate, I do not speak lightly of the strength of a christian character. Far be it from me to join in the sneers which are sometimes thoughtlessly indulged in that a man who is a good Christian is not therefore a good man. Most of them are. Many times all of them are. But they are all sons of Adam and Eve. They fall because they are human. They fall all at once because they have never been shown to the light, and their fall is all the greater because their outward lives have been pure before. I do not forget what a bulwark it is to you and me, Mr. Foreman, that we have heretofore borne a reputation that is above the suspicion of crimes and felonies. It is sometimes the only refuge of a man put in straits. But nobody is beyond the rank of men. Else would it not have been said even by the disciples themselves, "Lead not thy servant into presumptuous sins." It was not ordained by the Saviour that the weak and the trembling and the wicked and the easily turned only should utter the prayer, lead us not into temptation. We are none of us secure. Have you led, sir, an honorable, an upright life? Thank your Heavenly Father that the temptations have not been too strong for you. Have you, sir, never been guilty of heinous crime? Is it your strength of character or is it your fortune that you have been able to resist what has been brought against you? Mr. Foreman, let me not be misunderstood. Not for one moment would I urge that because a man or a woman has led an upright and devout life that therefore there should be any reason for suspecting him or her of a crime. On the contrary, it is a buttress to the foundation, to the presumption of innocence with which we start to try anybody. I am obliged to tread now upon a more delicate ground. The prisoner is a woman, one of that sex that all high-minded men revere, that all generous men love, that all wise men acknowledge their indebtedness to. It is hard, it



HOSEA M. KNOWLTON.

is hard, Mr. Foreman and gentlemen, to conceive that woman can be guilty of crime. It is not a pleasant thing to reflect upon. But I am obliged to say what strikes the justice of every man to whom I am talking, that while we revere the sex, while we show our courtesies to them, they are human like unto us. They are no better than we; they are no worse than we. If they lack in strength and coarseness and vigor, they make up for it in cunning, in dispatch, in celerity, in ferocity. If their loves are stronger and more enduring than those of men, am I saying too much that, on the other hand, their hates are more undying, more unyielding, more persistent? We must face this case as men, not as gallants. You will be slow to believe it is within the capacity of a man to have done it. But it was done. You will be slower to believe that it was within the capacity of a woman to have done it, and I should not count you men if you did not, but it was done. It was done for a purpose. It was done by hatred. But who did it? You have been educated to believe, you are proud to recognize your loyalty, your fealty to the sex. Gentlemen, that consideration has no place under the oath you have taken. We are to find the facts. I am said to be impervious to criticism, but those who have said one thing of me may have the consolation of knowing that the shaft has struck home. When it has been said of me that in the trial of this cause, in the prosecution of this case, there entered into it anything but the spirit of duty, anything like a spirit of revenge, any unworthy motives like ambition or personal glory, if they had known how I shrank from this horrible duty, those slanderous tongues would never have uttered those words. Gentlemen, it is the saddest duty of my life—it is the saddest duty of my life. Gladly would I have shrunk from it if I could have done so and been a man. Gladly would I have yielded the office with which I have been intrusted by the votes of this district if I could have done so honorably. And if now any word I say, any evidence I state, any inference I draw, shall be done with any purpose or intent to do that woman an injustice, may my right hand wither and my tongue cleave to the roof of my mouth. With that spirit, gentlemen, let me ask you to enter upon this case. It was a crime that may well challenge your most sober and sacred attention. That aged man, that aged woman, had gone by the noonday of their lives. They had borne the burden and heat of the day. They had accumulated a competency which they felt would carry them through the waning years of their lives, and hand and hand they expected to go down to the sunset of their days in quiet and happiness.

But for that crime they would be enjoying the air of this day. But for that assassin many years of their life, like yours, I hope, sir, would have been before them, when the cares of life were past, when the anxieties of their daily avocation had ceased to trouble them, and together they would have gone down the hill of life serene in an old age that was happy because the happiness had been earned by a life of fidelity and toil. Over those bodies we stand, Mr. Foreman. We sometimes forget the past. Over those bodies we stand, and we say to ourselves, is it possible that this crime cannot be discovered. You are standing, as has been suggested, in the presence of death itself. It is only what comes hereafter, but it is the double death that comes before. There is a place—it is the chamber of death—where all these personal animosities, passions and prejudices have no room, where all matters of sentiment are one side, where nothing but the truth, the naked truth, finds room and lodgment. In that spirit I adjure you to enter upon the trial of this case. It is the most solemn duty of your lives. We have brought before you as fully and frankly as we could, every witness whom we thought had any knowledge of any surrounding of this transaction, I do not know of one that has been kept back.

They were not merely the officers of the police. They were the domestic of that establishment, the tried and faithful servant, and, for aught that I know or have heard, the friend of these girls to-day. They were the physician who was the first one called on the discovery of the tragedy. They are the faithful friends and companions of this defendant. And we have called them all before you and listened to what they had to say, whether it was for her or against her. Nay, we called the relative himself and had his story of what he knew in the matter, and all the people who by any possibility could have known anything about this thing we have tried to produce to you to tell all that they could tell. Then there came another class of witnesses, if I may classify them. As soon as this crime was discovered it became, Mr. Foreman, did it not, the duty of those who are intrusted with the detection of crime to take such measures as they thought were proper for the discovery of the criminal. They are officers of the police. When you go home, sir, to your family, after this long agony is over, and a crime has been committed that approaches this in magnitude, or any crime whatever, where will you go? to whom will you appeal? on whom will you rely? Upon the very men that my distinguished friend has seen fit by direction to criticise as interested in this case. He put a question the other day

which I forgave him for because it came in heat, but it illustrates what I am saying—saying to one of these officers, "speaking to you not as a police officer but as a man." It is true they are police officers, but they are men, too. They are to find out what the truth of it is. They made many mistakes. The crime was beyond the experience of any man in this country or in this world; what wonder that they did? They left many things undone that they might have done; what wonder that they did? It was beyond the scope of any men to grasp in its entirety at that time. But honestly, faithfully, as thoroughly as God had given them ability, they pursued the various avenues by which they thought they might find the criminal. My distinguished friend has not charged in words, and it is not true that their energies have been bent to this unfortunate prisoner. It was in evidence that many things were followed up, that many trails were pursued, and I am not permitted even to tell you how many men were followed with the thought that perhaps they had something to do with this crime, how many towns and cities were investigated, and how many people were watched and followed, how many trails have been pursued. Don't you suppose, Mr. Foreman, they would be glad to-day if it could be found that this woman did not do this thing? Is there a man so base in all this world that hopes she did it, that wants to believe she did it, that tries to believe she did it? Nay, nay, Mr. Foreman. All the evidence in this case that is entitled to great weight from the police officers came before (as I shall show you by and by) any suspicion came to them that she was connected with it. And it was only after they had investigated the facts, had gotten her stories and put them together, that the conviction forced itself upon them, as perhaps it may upon you, that there is no better explanation which will answer the facts that cannot be denied.

A blue coat does not make a man any better; it ought not to make him any worse. They are men; Mr. Fleet is a man, Mr. Mullaly is a man, Mr. Medley is a man, and they are not to be stood up in a row and characterized as good or bad because they are officers, but upon what you think of them as men. There is another thing that troubles my friends—I now include the learned advocate who opened this case as well as the distinguished counsel who closed it—and which perhaps from your ordinary and accustomed channel of thought may have troubled you. I speak of it frankly, for many honest men have been heard to say—I have heard many an honest man say, that he could not believe circumstantial evidence. And I respect the honesty of the man who says it: But, gentlemen, the

crime we are trying is a crime of an assassin. It is the work of one who does his foul deeds beyond the sight and hearing of men. All it means is this: That when one sees the crime committed or one hears the crime committed then the testimony of him that sees or hears is the testimony of a witness who saw it or heard it and is direct evidence. All other evidence is circumstantial evidence. That is the exact distinction. Did you ever hear of a murderer getting a witness to his work who could see it or hear it? Murder is the work of stealth and craft in which there are not only no witnesses, but the traces are attempted to be obliterated. What is called sometimes circumstantial evidence is nothing in the world but that presumption of circumstances, it may be one or fifty. There isn't any chain about it: the word "chain" is a misnomer as applied to it; it is the presentation of circumstances from which one is irresistibly driven to the conclusion that crime has been committed. Talk about a chain of circumstances! When that solitary man had lived on this island for twenty years and believed that he was the only human being there and that the cannibals and savages that lived around him had not found him nor had not come to his island, he walked out one day on the beach, and there he saw the fresh print in the sand of a naked foot.

He had no lawyer to tell him that was nothing but a circumstance. He had no distinguished counsel to urge upon his fears that there was no chain about that thing which led him to a conclusion. His heart beat fast, his knees shook beneath him, he fell to the ground in fright, because Robinson Crusoe knew when he saw that circumstance that man had been there that was not himself. It was circumstantial evidence; it was nothing but circumstantial evidence, but it satisfied him. It is not a question of circumstantial evidence, Mr. Foreman; it is a question of the sufficiency of circumstantial evidence. It is like the refuse that floats upon the surface of the stream. You stand upon the banks of the river and you see a chip go by; that is only a circumstance. You see another chip go by. That is another circumstance. You see another chip in front of you going the other way. That is only another circumstance. By and by you see a hundred in the great body of the stream, all moving one way, and a dozen or two in this little eddy in front of you going the other way. The chain is not complete, some of the chips go up the stream; but you would not have any doubt, you would not hesitate for a moment, Mr. Foreman, to say that you knew which way the current of that river was, and yet you have not put your hand in the

water, and yet have only seen things from which you inferred it, and even the things themselves did not go the same way. But you had the wit and the sense and the human and common experience to observe that those that went the other way could be explained, and the great body of them went that way. Mr. Foreman, there have been very few cases of assassination in which there was direct testimony. My learned friend, the counsel, who opened this case, has culled out from the billion of cases that have been tried by juries in English-speaking countries—I think I do not exaggerate—from the thousand million of cases which have been tried upon circumstantial evidence in English-speaking countries, an instance here and an instance there where it was found, perhaps, that there was a mistake; and even those cases, with one single exception (and in that case the man never got hanged) are open to great doubt and discredit. But every lawyer knows, every man who is accustomed to the trying of cases is familiar with the fact that the testimony of men is wrong a hundred times where facts are wrong once. What impresses one as the remarkable and distinguishing feature of this case is the gradual discovery of the surprising fact that these two people did not come to their death at the same time. I have no doubt that each one of you, as you heard the stories as they came flashed over the wires, had the idea that was common to everybody who did not know anything about it, and there was nobody that did, that some man had come in, rushed through the house, killed the old gentleman, rushed upstairs and killed the old lady, and then had made his escape. But it was found that that was not so. It has been proved so conclusively that counsel do not dispute the proposition. It is scarcely worth while for me to recapitulate the evidence. I will not do it. Mr. Wixon, Mr. Pettee, who is not in any way connected with the government and holds no government office—came in there and made their explanation, and as Dr. Dedrick put it, it appeared to him—for he is a physician of experience, that the deaths were several hours apart. Dr. Dolan examined more carefully the blood and the wounds and the head, and he thought there was a difference of from an hour to an hour and a half.

But, Gentlemen, there is within us, provided by the Almighty, a clock by which the eye of science can tell the time. When a man falls into the water and drowns, his watch stops and fixes the time when he drowns; anybody can tell that. But when the human life stops, if precautionary measures are taken, as were taken in this case, a man who is skilled in the examination of these things can tell as accurately

the relative time of the deatn of that man as we can tell the time by that clock up there. And so we proved—ah, it was a suspicion born of consciousness and not of anything we said in this case when it was suggested that we were trying to show the poverty of the mode of her life here; there never has been a word of that on our side of the case; my learned associate did not even hint that we were going to claim there was anything mean or poverty-stricken in this family, and it never was said until my distinguished friend saw fit to defend that family from what never was charged. But for the purpose of scientific investigation which was necessary, we proved—and for no other purpose whatever—what was the breakfast of that family that morning, and that the members of it sat down and partook together. It was a good breakfast, it was the ordinary New England breakfast, and nobody has said the contrary. Do not let me be misunderstood for one single moment in this case. And for that purpose we showed you that these people sat down to breakfast at from seven to quarter past seven, and finished from half past seven to quarter of eight, and ate together and ate at the same time. They lived their lives out prematurely cut off by the hand of the assassin: their bodies lay upon the floor. Their stomachs were taken out, digestion stopped when they stopped, and were sent to the eminent, that scientific, that honest, that utterly fair man, Prof Wood, whom my learned friends will join with me in saying is the most honest expert there is in Massachusetts to-day. He alone was able to determine accurately the time of their death, assuming that digestion went on normally within them, and he says that in all human probability the time of her death preceded his by an hour and a half; it might possibly have been a half hour less; it might possibly have been a half hour more: Singularly enough, science is corroborated by the facts. Singularly enough, everything fits into that proposition. Andrew Jackson Borden probably never heard the clock strike 11 as it pealed forth from the tower of city hall; and she was found dead with the implement with which she had been engaged in dusting the rooms at her head and close by her death. She was stricken down while she was in that morning work in which she was engaged the last time anybody saw her. And all the evidence in the case points to the irresistible conviction that when Andrew Borden was down at his accustomed place in the bank of Mr. Abraham Hart, the faithful wife he had left at home was prone in death in the chamber of the house he had left her in. At half-past nine, if we are to believe the consensus of all this testimony, the assassin met her in that room and put an end to her innocent old life.

Gentlemen, that is a tremendous fact. It is a controlling fact in this case. It is the key of the case. Why do I say that? Because the murderer of this man was the murderer of Mrs. Borden. It was the malice against Mrs. Borden that inspired the assassin. It was Mrs. Borden whose life that wicked person sought, and all the motive that we have to consider, all we have to say about this case, bears on her. It is a tremendous fact for another thing, a significant fact for another thing. We are driven to the alternative of finding that there was a human being who had the unparalleled audacity to penetrate that house when the entire family were in and about it, so far as he knew, to pursue his murderers with a deadly weapon in his hand, to the furthest corner of the house, and there to select an innocent and unoffending old lady for his first victim, and then lie in wait until the family should all get together an hour and a half later that he might kill the other one.

This murderer was no fool: he was obedient to craft and cunning. He could not forsee that Bridget would go upstairs. He could not forsee that Lizzie would go to the barn. He might have known from the habits of Andrew Borden that he would come back, but it would be back to a house full of people—Morse might come at any time: he knew not when Emma might come. He was waiting for the family to assemble, this man who committed this deed. It was no sudden act of a man coming in and out. It was the act of a person who spent the forenoon in this domestic establishment, killing the woman at her early work and waiting till the man returned for his noon-day meal in order that he could be killed when everybody would be likely to be around him. It is a tremendous fact, Mr. Foreman. It appears in this case from the beginning to end. She had not an enemy in the world. You and I sometimes have our jars and discords. Andrew J. Borden had had his little petty quarrels with his tenants, nothing out of the ordinary, but Mrs. Abby Durfee Borden had not an enemy in all the world. There she lay bleeding, dead, prone by the hand of an assassin. Somebody went up there to kill her. In all this universe there could not be found a person who could have had any motive to do it.

We must now go into this establishment and see what manner of family this was. It is said that there is a skeleton in the household of every man, but the Borden skeleton—if there was one—was fairly well locked up from view. They were a close-mouthed family. They did not parade their difficulties. Last of all would you expect they would tell the domestic in the kitchen, which is the whole tower of strength of the defense, and yet, Mr. Foreman, there was a skeleton

in the closet of that house which was not adequate to this matter—O, no, not adequate to this thing. There is not anything in human nature that is adequate to this thing—remember that. But there was a skeleton of which we have seen the grinning eyeballs and the dangling limbs. It is useless to tell you that there was peace and harmony in that family. We know better. We know better. The remark that was made to Mrs. Gifford, the cloakmaker, was not a petulant outburst, such as might come and go. That correction of Mr. Fleet, at the very moment the poor woman who had reared that girl lay dead within ten feet of her voice, was not merely accidental. It went down deep into the springs of human nature. Lizzie Borden had never known her mother. She was not three years old when that woman passed away, and her youthful lips had scarcely learned to pronounce the tender word mamma, and no picture of her lay in the girl's mind. And yet she had a mother—she had a mother. Before she was old enough to go to school, before she arrived at the age of five years, this woman, the choice of her father, the companion of her father, who had lost and mourned and loved again, had come in and had done her duty by that girl and had reared her, had stood in all the attitudes which characterize the tenderest of all human relations. Through all her childhood's sicknesses that woman had cared for her. When she came in weary with her sports, feeble and tired, it was on her breast that girl had sunk as have our children on the breast of their mothers. She had been her mother, faithful persevering, and had brought her up to be at least an honorable and worthy woman in appearance and manner.

This girl owed everything to her. Mrs. Borden was the only mother she had ever known, and she had given to this girl her mother's love and had given her this love when a child when it was not her own and she had not gone through the pains of childbirth, because it was her husband's daughter. And then a quarrel; what a quarrel. What a quarrel, Mr. Foreman. A man worth more than a quarter of a million of dollars, wants to give his wife, his faithful wife who has served him thirty years for her board and clothes, who has done his work, who has kept his house, who has reared his children, wants to buy and get with her the interest in a little homestead where her sister lives.

How wicked to have found fault with it. How petty to have found fault with it. Nay, if it was a man sitting in that dock instead of a woman, I would characterize it in more opprobrious terms than those. I trust that in none of the discussion that I engage in

to-day shall I forget the courtesy due from a man to a woman; and although it is my horrible and painful duty to point to the fact of this woman being a murderess, I trust I shall not forget that she is a woman, and I hope I never have. And she repudiated the title that that woman should have had from her. Did you ever hear of such a case as that? It was a living insult to that woman, a living expression of contempt, and that woman repeated it day in and day out, saying to her, as Emma has said, you are not interested in us. You have worked round our father and have got a little miserable pittance of $1,500 out of him, and you shall be my mother no more. Am I exaggerating this thing? She kept her own counsel. Bridget did not know anything about it. She was in the kitchen. This woman never betrayed her feelings except when some one else tried to make her call her mother, and then her temper broke forth. Living or dead, no person should use that word mother to that poor woman unchallenged by Lizzie Borden. She had left it off herself; all through her childhood days, all through her young life Mrs. Borden had been a mother to her as is the mother of every other child to its offspring, and the time comes when they still live in the same house and this child will no longer call her by that name. Mr. Foreman, it means much. It means much. Why does it mean much? They did not eat together. Bridget says so. My distinguished friend tried to get her to take it back, and she did partly. The woman would have taken most anything back under that cross-examination, but this is her testimony: "That is so, they always ate together." "Yes, they always ate in the same dining-room." Bridget is going to have her own way yet. But I do not put it on Bridget. I put it on Lizzie herself. When Mrs. Gifford spoke to her, talking about her mother, she said, "Don't say mother to me."—that mother who had reared her and was her father's companion under the roof with whom she was then living, whose household she shared, to whom every debt of gratitude was due and whom she had repudiated as her mother, she could not find the heart to say to this cloakmaker was her mother, for I believe that you believe this story is true—"she is a mean, good for nothing old thing." Nay, that is not all—"We do not have much to do with her. I stay in my room most of the time."

Is not that so? Uncle John Morse came to visit them, stayed over night, and during the afternoon and evening, and next morning, and never saw Lizzie at all—her own uncle. "Why, you come down to your meals?" said Mrs. Gifford, and Lizzie said, "Yes, but we

don't eat with them if we can help it." I heard what Miss Emma said Friday, and I could but admire the loyalty and fidelity of that unfortunate girl to her still more unfortunate sister. I could not find it in my heart to ask her many questions. She was in the most desperate strait that any innocent woman could be in, her next of kin, her only sister, stood in peril, and she must come to the rescue. She faintly tells us the relations in the family were peaceful, but we sadly know they were not. But you will say, you will fairly say, Mr. Foreman—let me not underrate this thing one atom—you will fairly say, what is that? I don't know. I don't know how deep this cancer had eaten in. It makes but little show on the surface. A woman can preserve her appearance of health and strength even when the roots of this foul disease have gone and wound clear around her heart and vital organs. This was a cancer. It was an interruption of what should have been the natural agreeable relations between mother and daughter, a quarrel about property, not her property, but her father's, and property that he alone had the right to dispose of. A man does not surrender his rights to his own until he is dead, and not even then if he chooses to make a will. She could not brook that that woman should have influence enough over her father to let him procure the little remnant of her own property that had fallen to her from her own folks. She had repudiated the title of mother. She had lived with her in hatred. She had gone on increasing in that hatred until we do not know, we can only guess, how far that sore had festered, how far the blood in that family had been poisoned by the misfortune of these unfortunate relations between them. I come back to that poor woman lying prone, as has been described, in the parlor. It is wicked to have to say it, it is wicked to have to say it, but, gentlemen, there is no escape from the truth. Had she an enemy in all the world? She had one. Was anybody in the world to be benefitted by her taking away? There was one. There was one. It is hard to believe that mere property would have influenced this belief. We are not obliged to, although it appears that property was that which made or broke the relations of that family, and a small amount of property, too. But there was one woman in the world who believed that that dead woman stood between her and her father, and was the enemy of her and the friend of her father, and between whom there had grown up that feeling that prevented her from giving her the title that the ordinary instincts of decency would have entitled her to. Let us examine the wounds upon that woman. So we look at the skull and we look at these wounds, and what do

we read there? We know afterwards, by another examination downstairs, that no thief did this thing; there was no object of plunder. We are spared the suspicion that any base animal purposes had to do with this crime. No, Mr. Foreman, there was nothing in these blows but hatred, but hatred, and a desire to kill. What sort of blows were they? Some struck here at an angle, badly aimed; some struck here in the neck, badly directed; some pattered on top of the head and didn't go through; some, where the skull was weaker, went through. A great strong man would have taken a blow of that hatchet and made an end of it. The hand that held the weapon was not the hand of masculine strength. It was the hand of a person strong only in hate and desire to kill. We have not proved anything yet, but we must take things as they come, no matter where they lead us. It was not the work of a man who, with a blow of that hatchet, could have smashed any part of that skull, and whose unerring aim would have made no false blow or false work. In was the indecisive blow of hatred, the weak, puttering, badly aimed, nerveless blows—I forbear for the present to bring that sentence to a conclusion, for I won't do it until I am obliged to. I won't ask you, until I am obliged to, to listen to it. Now we must go back and see what the circumstances of that crime were, for that is the crime we are trying. We will come at the other one by and by, and see how and when and why they happened. But now we are trying that crime, the motive of that crime, the probable author of that crime, who could have committed that crime, what sort of person committed that crime, and why it was done. We find, Mr. Foreman, perhaps the most remarkable house that you ever heard of. My distinguished friend has admitted so many things that I am saved the necessity of arguing very much about the circumstances surrounding the house. Everything was locked up. Why, did you notice there was even the barbed wire at the bottom of the fence as well as on the top and on the stringers? Everything was shut up. It was the most zealously guarded house I ever heard of. The cellar door was found locked by all the witnesses that examined it. The barn door was locked at night and was kept locked all night and opened in the morning, by the undisputed testimony of Bridget, whom nobody has suggested or ventured to suggest has told anything more than she knows in the case. The closet door, up to the head of the stairs, was found locked by Mr. Fleet, and every time that he wanted to go in there, or anybody else wanted to go in there, or Lizzie herself, she furnished the keys that unlocked it. So that door was locked up. The front door

was a door which had been kept by a spring lock until that day. The day before, when Dr. Bowen called, Bridget let him in by the spring lock. That night, when Lizzie came home from her call on Miss Russell, she let herself in by the spring lock. There isn't an atom of evidence that up to the time of this tragedy and when people began to come in and out and upset the ordinary arrangements of that house, but that the front door had always been kept by a spring lock and opened in the morning. That morning it was not opened. It was that woman's business to open it, and she did not open it. She came down stairs and went into the kitchen and went about her ordinary avocations, and by and by, when Mr. Borden came home, he expected to find it unlocked, because he tried his key to it and it wouldn't fit, and he had to call her attention to get in. And it was not only with the spring lock, but with the bolt and with the lower lock (all three put together) as people lock their door when they go to bed. Not the shutting in of an assassin, as my distinguished friend has suggested, who was trying to lock himself into the house, wild and improbable as that suggestion is. Then the screen door. It may be, perhaps, as good a way to do as any to refresh your memories about it as well as my own. I will go back to the night before. That afternoon at 5 o'clock that screen door was locked. That night when Bridget went out she locked the back door after her. That night when she came back she found it locked, and she locked up the screen door and the outside door and went upstairs to bed. No chance for anybody to get in that day. The cellar was never unlocked except on the Tuesday before—and I get this right from the testimony because I do not want to argue anything but what is strictly correct. The next morning Bridget got up at 6.15 and took in the milk and hooked the screen door, unlocked the big door. A little while afterwards Mrs. Borden came down, some time between 6:30 and 6:45, and went into the sitting room. Mr. Borden came a little while afterwards, put his key on the shelf, and unhooked the screen door and went into the yard, Bridget remaining in the kitchen all the time. When he came back Bridget was out of view of the screen door and don't know whether he hooked it or not.

But the next person that went out was Morse, and Mr. Morse tells us—for he fills all that cavity up—Mr. Morse tells us that he unhooked the screen door when he went out and Mr. Borden hooked it after him, so that Mr. Borden must have hooked it when he came in. Then, when Mr. Borden came in he hooked the screen door again, Bridget being on guard in the kitchen all the time. Then

Bridget went about her work, eating her breakfast, clearing off the dining room dishes, right there on guard in the kitchen all the time. By and by Lizzie came down. Lizzie came into the kitchen, and her father had not then gone and Bridget went out into the yard a few minutes, because she was sick, too. She remained there in the yard for a moment or two, and when she came to, Lizzie had got through her breakfast and had got back into the other part of the house, she didn't know where, and Mr. Borden had gone off down town. When she came in she hooked the screen door. Up to that time, Mr. Foreman, no human being could have got into that house. We go further than that. By and by Bridget goes into the dining room to clear off her dining room things, and sees Mrs. Borden dusting in and out of the sitting room and the dining room, and Mrs. Borden directs her, when she gets through her work, to wash the windows. Bridget goes on about her work and Mrs. Borden disappears upstairs and Lizzie is out of sight. She gets through with her work—and I call your particular attention to this. She gets through with her work, Bridget does, goes down cellar and gets her pail, comes back into the house, goes through the house and puts down the windows and there isn't anybody below the stairs. Mr. Borden has long since gone down town. It must have been about half past nine when Bridget went out to wash the windows, or possibly a little later. She goes out of the screen door, which up to that time no human being could have gone through. She has no more than got out of doors than Lizzie, who had not been down stairs up to that time, who had not gone away from the house, and, as she herself says, saw her mother up there making the bed, or working in that guest chamber, Lizzie comes to the back door to see if Bridget is fairly out of doors, goes back into the house, and the murder is then done, as Prof. Wood's clock tells us.

Never mind the impossibility—I won't argue that now, Mr. Foreman—never mind the impossibility for the present of imagining a person who was so familiar with the habits of that family, who was so familiar with the interior of that house, who could forsee the things that the family themselves could not see, who was so lost to all human reason, who was so utterly criminal as to set out without any motive whatever, as to have gone to that house that morning, to have penetrated through the cordon of Bridget and Lizzie, and pursued that poor woman up the stairs to her death, and then waited, weapon in hand until the house should be filled up with people again that he might complete his work.

I wont discuss with you the impossibility of that thing for the present. I will come back to the facts in this case and ask you whether or not, at that time when the murder was done—up to that time there had been no room for the assassin to come in, and after that time the house was there alone with Lizzie and her murdered victim. The dead body tells us another thing. It is a circumstance, but it is one of those circumstances that cannot be cross-examined nor made fun of nor talked out of court. The poor woman was standing when she was struck, and fell with all the force of that two hundred pounds of flesh, flat and prone dead on the floor. That jar could not have failed to have been heard all over that house. They talk about its being a noisy street. Why, Bridget tells us that she could hear the screen door from her room when it slammed. She did hear Andrew Borden trying the lock of the front door and went to let him in without the bell being rung. Lizzie heard her down there letting her father in. Nothing happened in one part of the house that wasn't heard in the other. My friend has spent some time in demonstrating, as he believes, to you, the unlikelihood of her seeing her murdered mother as she went up and down the stairs. But Lizzie Borden has ears as well as eyes. If she was downstairs she was in the passageway of the assassin. If she was upstairs there was nothing to separate her from the murder but the thinness of that deal door that you saw. And do you believe for a moment, Mr. Foreman and gentlemen, do you believe for a moment that those blows could have been struck—that woman was struck in a way that did not make her insensible—that she could have been struck without groaning or screaming; that she could have fallen without a jar, a woman as heavy as I am (I just use that by way of illustration), on that floor, nearer than I am to you, sir, from Lizzie, and she know nothing of it? If the facts I have put to you, Mr. Foreman, are true, at the very instant when the murders were committed we leave Lizzie and Mrs. Borden in the house together. Was she in the passageway when this assassin came in? She alone knows. Was she in her room when that heavy body fell to the floor? She alone knows. But we know, alas, we know, Mr. Foreman, that when Bridget opened that screen door and went out to wash the windows, after Mr. Borden had met his half-past nine appointment at the bank, that she left in the house this poor woman and the only enemy she had in the world. And there had been no more chance, if there was any conceivable possibility existing to mankind that anybody else got in than there would be of getting into this room and you and I not seeing them. But that is not all.

It is provided, as I humbly and devoutly believe, by the divine justice itself, that no matter how craftily murder is planned, there is always some point where the skill and cunning of the assassin fails him. It failed her. It failed her at a vital point, a point which my distinguished friend has attempted to answer, if I may be permitted to say so, and has utterly failed. She was alone in that house with that murdered woman. She could not have fallen without her knowledge. The assassin could not have come in without her knowledge. She was out of sight and Mrs. Borden was out of sight, and by and by there was coming into the house a stern and just man, who knew all the bitterness there was between them. There came into that house a stern and just man who would have noticed the absence of his wife, and who would have said to her, as the Almighty said to Cain. "Where is Abel, thy brother?" And that question must be answered. He came in; he sat down; she came to him, and she said to him: "Mrs. Borden"—she would not even call her "mother" then—"Mrs. Borden has had a note and gone out." That stilled his fears; that quieted any apprehensions he might have felt or reason of her absence either from the sitting room or the kitchen, or her own room upstairs, where he was sure to go with his key, as he did. When Bridget went to her room, and I call your attention to this as being the first information that Bridget had of it—it will appear by and by by the evidence itself—before Bridget went upstairs to her room Lizzie says to her, "If you go out, be sure and lock the door, for Mrs. Borden has gone out on a sick call and I might go out, too." Bridget says, "Miss Lizzie, who is sick?" naturally enough. She said. "I don't know, but she had a note this morning and it must be in town."

Mrs. Churchill came over. "Where is mother, Lizzie?" She said: "I don't know. She had a note to go to see some one who was sick, but I don't know but she is killed, too, for I think I heard her come in." I will talk about that by and by, if I don't weary you too much. Then she said something to Fleet. Although she told Fleet that the last time she saw her stepmother was 9 o'clock, and she was then making her bed in the room where she was found dead, she said, "some one brought a letter or a note to Mrs. Borden," and she thought she had gone out, and had not known of her return. Then when Bridget came back she wanted to find her. She knew that one of the mother's only relatives was Mrs. Whitehead, the sister of her husband, as it turned out, because it turned out by Miss Emma's cross-examination and she said: "Oh, Lizzie, if I knew

where Mrs. Whitehead lived I would go and see if Mrs. Borden is there and tell her that Mr. Borden is very sick." Mr. Foreman, charged with the responsibility of the solemn trust imposed upon him, my learned associate said in opening this case that that statement was a lie. Conscious as I am, Mr. Foreman, that any unjust or harsh word of mine might do injury that I never could recover my peace of conscience for, I reaffirm that serious charge. No note came; no note was written; nobody brought a note; nobody was sick. Mrs. Borden had not had a note. My learned friend said, "I would stake the case on the hatchet." I will stake it on your belief or disbelie in the truth or falsity of that proposition. Afterwards, after Lizzie had told Bridget that Mrs. Borden had had a note to go out and see some one, that Mrs. Borden had gone out on a sick call and had had the note come that morning, she told her before she went to the room and that murder was discovered, and after it was a matter of common talk, and when Mrs. Churchill was asking Bridget not as a source of original information but for all the news there could be had about it, Bridget then said to her, not "to my own knowledge Mrs. Borden had a note to go out to see some one who was sick," but repeated it as the story of the original and only author, Lizzie Borden. Obviously that is so, because when my learned and distinguished friend comes to the cross-examination of Bridget, this is what Bridget said, that she never had any knowledge of a note at all, except what Lizzie told her. Pardon me for reading it, because this is vital to the case. "You simply say that you didn't see anybody come with a note?" "No, sir; I did not." "Easy enough for anybody to come with a note to the house and you not know it, wasn't it?" "Well, I don't know if a note came to the back door that I wouldn't know. The door bell never rang that morning at all." "But they wouldn't necessarily go to the back door, would they?" "No. I never heard anything about a note; whether they got it or not, I don't know. I never heard anything about a note." She was obviously telling the story as Lizzie had told it to her. Bridget had last seen Mrs. Borden dusting in the sitting room. She had been told by Lizzie that she had got a note and gone out.

No, gentlemen. In the first place, Bridget was on guard at that back door until she had washed the windows, and no note came that way. She testifies, and you can easily believe her testimony, because the front door was locked with three locks all the time, that nobody came to the front door and rang the bell with a note. I said that Almighty providence directed the course of this world to bring

murderers to grief and justice. Little did it occur to Lizzie Borden when she told that lie to her father that there would be manifold witnesses of the fatality of it. They have advertised for the writer of the note, which was never written and which never came. Gentlemen, incredulity sometimes can be dismissed by evidence, but I am not looking in the face of one single man that will believe for an instant that the writer of that note would not months ago have come forward and cleared that thing up. There never was one. Ah, but my distinguished friend is pleased to suggest—he hardly dares to argue it, such is his insight and fairness—he is pleased to suggest that it was part of the scheme of assassination. How! To write a note to get a woman away when he was going there to assassinate her? What earthly use was there in writing a note to get rid of Mrs. Borden, when there would still be left Lizzie and Bridget in the house? O, no, that is too wild and absurd. The whole falsehood of that note came from the woman in whose keeping Mrs. Borden was left by Andrew Borden, and it was as false as was the answer that Cain gave to his Maker when he said to him, "Where is thy brother Abel?" I regret to ask you so to believe, gentlemen. It pains me beyond expression to be compelled to state these things. God forbid that anybody should have committed this murder, but somebody did, and when I have found that she was killed, not by the strong hand of man, but by the weak and ineffectual blows of woman, when I find that those are the blows of hatred rather than of strength, when I find that she is left alone at the very moment of murder, shut up in that house where every sound went from one end to the other, with the only person in all God's universe who could say she was not her friend, with the only person in the universe who could be benefited by her taking away, and when I find, as I found, and as you must find, if you answer your consciences in this case, that the story told about a note coming is as false as the crime itself, I am not responsible, Mr. Foreman, you are not responsible for the conclusion to which you are driven. Bridget finished the washing of her windows, came into the house, no one being below the stairs, took her step ladder and began the work upon the inside of the windows. Meanwhile the old gentleman was finishing the last walk of his life. You find him leaving his house by the back door, where Mrs. Churchill saw him, probably, although it may not have been the occasion of his leaving. We certainly find him down at his accustomed place in the bank that had honored him by making him its president, at his usual hour of 9:30. We find him going on from

this to the other bank that honored him by making him a trustee, a little later in the day. The malice was all before this fact. The wickedness was all before the fourth day of August. The ingratitude, the poisoning, the hate, the stabbing of the mind, which is worse than the stabbing of the body, had gone on under that roof for many, many moons. All we know is that there was a jealousy which was unworthy of that woman. All we know is that, as Emma expressed it herself, they felt that he was not interested in them and no step could be taken by that poor man, no suggestion could be made by that poor man, that would not fan the embers of that discontent into the active fires of hatred that we have seen, alas, too many times manifested in many an unhappy home. I speak of these things, Mr. Foreman, at this time because I have left the dead body of that aged woman lying upon the guest chamber floor, in the room where she was last at work, and am asking you to come down with me to a far sadder tragedy, to the most horrible word that the English language knows, to a parricide. I do not undertake, far be it from me to seek to detract one iota from the terrible significance of that word; and when I am asked to fight and prove and declare and explain a motive for that act, well may my feeble powers quail at the undertaking.

There may be that in this case which saves us from the idea that Lizzie Borden planned to kill her father. I hope she did not. But Lizzie Andrew Borden, the daughter of Andrew Jackson Borden, never came down those stairs. It was not Lizzie Andrew Borden, the daughter of Andrew Jackson Borden, that came down those stairs, but a murderess, transformed from all the thirty-three years of an honest life, transformed from the daughter, transformed from the ties of affections to the most consummate criminal we have read of in all our history or works of fiction. She came down to meet that stern old man. His picture shows that, if nothing more, even in death. That just old man, of the stern puritan stock, that most of you are from, gentlemen, that man who loved his daughters, but who also loved his wife, as the Bible commanded him to, And, above all, the one man in all this universe who would know who killed his wife. She had not thought of that. She had gone on. There is cunning in crime, but there is blindness in crime, too. She had gone on with stealth and cunning, but she had forgotten the hereafter. They alway do. And when the deed was done she was coming downstairs to face Nemesis. There wouldn't be any question of what he would know of the reason why that woman lay in death. He knew who disliked her. He knew who could not tolerate her

presence under the roof. He knew the discussion which had led up to the pitch of frenzy which resulted in her death, and she didn't dare to let him live, father though he was, and bound to her by every tie of affection. It is the melancholy, the inevitable attribute of crime that it is the necessary and fruitful parent of crime. He moved slowly. He went to the back door, as was his custom, but nobody was there to open it, and so he went around to the front door, as very likely he often did, supposing, of course, that he could gain entrance, as any man does into his own house in the day time, by the use of a spring lock. We have heard something about the noise and confusion of that street, but Bridget's ears, which are no quicker than Lizzie's, heard him as he put the key into the lock, and came to the door and let him in. He came in and passed into the dining room, because she was, I presume, working in the sitting room, took off his coat and sat down and replaced it with a cardigan jacket and down came Lizzie from the very place where Mrs. Borden lay dead and told him what we cannot believe to be true about where his wife was. I am told, gentlemen, that circumstances are to be regarded with suspicion. Mr. Foreman, a falsehood that goes right to the very vitals of crime not a circumstance; it is proof. Where was that mother? She knew. She told what never was true. That would pass off for awhile; that would keep the old man quiet for a time, but it would not last.

ATTORNEY GENERAL PILLSBURY.

She took out her ironing-board. Why had she not been ironing in the cellar part of the house. Mr. Foreman, we do not know. She had no duties around the household, so Emma tells us. There

was nothing for her to do. Bridget goes into the dining room. Having finished her windows in the sitting room, it took only a moment to go inside. Comes into the dining room to wash the windows and the old gentleman comes down from his room and goes into the sitting room and sits down. She suggests to him, with the spirit in which Judas kissed his master, that, as he is weary with his day's work, it would be well for him to lie down upon the sofa and rest. Then she goes into the dining room again, gets her ironing board, and proceeds to iron her handkerchiefs. Bridget finishes her work. She tells Bridget, and that is the first time that Bridget heard it directly, as I stated to you yesterday, that if she goes out that afternoon to be sure to lock the doors, because Mrs. Borden had gone out on a sick call. And she says: "Miss Lizzie, who is sick?" Miss Lizzie replies: "I don't know, but it must be in town, for she had a note this morning." She never did, and Bridget goes upstairs to take her little rest and leaves this woman ironing those handkerchiefs nearer to her father as he lay on that sofa than my distinguished friend is to me, at this moment. Again she was alone with her victim. O, unfortunate combination of circumstances, always. Again she is alone in the house with the man who was found murdered. It may be safely said to be less than twenty minutes from that time she calls Bridget down stairs and tells her that her father is killed. There is another straw, Mr. Foreman, another chip on the surface, not floating in an eddy, but always out in the middle of the currant, that tells us with irresistible distinctness of what happened after Bridget went upstairs. She had a good fire to iron the clothes with. Why do I say that? I will not speak without the evidence if I can help it. Officer Harrington comes along, takes a car that reaches city hall at 12:15, goes along Main street, goes to the house, talks with Lizzie, and, last of all, takes the cover off the stove and sees there, and I will read his own words: "The fire was near extinguished; on the end there was a little fire, I should judge about as large as the palm of my hand. The embers were about dying." That was as early as 12:30. I need not say to you that if there was fire enough to be seen at 12:30 there was fire enough to work with an hour and a half before 11 o'clock. There was fire enough. There is no trouble on that account. It was a little job she had to do, nine handkerchiefs at the outside, perhaps eight or seven, and when this thing is over Miss Russell gets the handkerchiefs and takes them upstairs, where we find a fatal thing, we find that four or five, I give the exact words of those handkerchiefs: "Are

ironed and two or three are sprinkled ready to iron." Whatever else is true, she had begun her work before Bridget went upstairs, she was engaged in it when Bridget left her. It was a job that could not have taken her any more than ten minutes at the outside, if I may use the common expression of mankind in that sort of work, and the clock of Lizzie's course of life stopped the instant Bridget left the room. What for? What for, gentlemen? It would have taken but a minute or so to finish them. The day was well gone, the dinner hour was approaching. There were four or five to take away and but two or three to finish, and in less time than I am speaking it would have been done.

It is terribly significant. There is that in this case which is far deeper than these accidental variations. She says to Bridget, not to an officer, "I was out in the back yard and heard a groan, and came in and the screen door was wide open, I may have occasion to say that that story was not true either, and was not consistent with any other story that she told. Dr. Bowen came next, I believe. He says, "Where have you been?" O, pregnant question that nobody could fail to ask. "In the barn looking for some irons or iron," she answers. Mrs. Churchill came next—I may not have the order right—and that honest woman asked it the first thing, "Where were you when it happened, Lizzie?" "I went to the barn to get a piece of iron." Miss Russell heard the remark. She does not distinctly remember asking it, and she is her friend: "What did you go to the barn for, Lizzie?" "I went to get a piece of tin or iron to fix my screen." And Mr. Fleet came in, and politely, as you may believe, courteously, as you are glad to think, he talked to her about that important question of where she was when this thing happened. Let me read it word for word, for it is vital and significant and Mr. Buck will not say that one word of it is misconstrued or misremembered or falsely stated. He asked her if she knew anything about the murders. "She said that she did not, all she knew was that her father came home about 10:30 or 10:45, went into the sitting room, sat down in a large chair, took out some papers and looked at them. She was ironing in the dining room some handkerchiefs, as she stated. She saw that her father was feeble, and she went to him and advised and assisted him to lie down upon the sofa. She then went into the dining room to her ironing, but left after her father was lain down, and went out into the yard and went up in the barn. I asked her how long she remained in the barn; she said she remained in the barn about half an hour. I then asked her what she meant by 'up in the barn.'

She said, 'I mean up in the barn, upstairs, sir.' She said after she had been up there about half an hour she came down again, went into the house and found her father lying on the lounge." Mr. Foreman and gentlemen, we must judge all facts, all circumstances as they appeal to your common sense. There is no other test; there is no other duty; there is no other way of arriving at justice, and tried by that standard I assert that that story is simply incredible. I assert that that story is simply absurd. I assert that that story is not within the bounds of reasonable possibilities.

That is not all. Saturday again the mayor of the city, who I assume is a gentleman, whom I know you will believe to be one, and Marshal Hilliard, who has answered by his dignified and courteous and wholly respectable presence all the slanders you have heard about him in his simple and unaffected way of testifying in this case, which is refutation enough of all the wicked things that have been said of him—that men came there Saturday evening, and again incidentally that story was referred to. She told her friend Alice that she went to get a piece of iron to fix her screen. She told them that she went out into the barn to get some sinkers. It is not so much the contradiction I call your attention to, for I want to be entirely fair, for both errands might have been in her mind.

Why could we not have had somebody to have told us what was the screen that needed fixing, and to have corroborated that story by finding the piece of iron that was put into the screen when she was left alone and when she came back in her fright. Show us the fish line that these sinkers went on. It was easy to do if they were in existence, if there was any truth in the story. Show us something by which we can verify this ferocious fact, that the alibi she was driven to put for herself is a good one. I will spend a little time in the prosecution of this argument to discuss Mr. Lubinsky. What he saw and when he saw it are absolutely indefinite. Let me treat him with entire fairnesss and justice. To begin with, he is a discarded witness. He went with his story first to Wilkinson and then to Mr. Mullaly and then to Mr. Phillips before the hearing in the district court. Mr. Mullaly tells you just what he told him. He saw Mr. Mullaly and told him it was about half past 10 when he went by and saw somebody coming from the barn. That was on the 8th day of August. About two weeks after the time—I do not need the record, for I remember it as though it was yesterday—about two weeks after that time he told Mr. Phillips. Yes, it would be the 22d of August. This hearing ran through the 24th, 25th, 26th, 27th, and into the first

day of September. He told a reporter, and I presume it was published, although I do not know about that. I won't say that, for I don't know. Mr. Phillips was present there in court; witnesses were called for the defense, and Lubinsky was not called. He had not got things patched up. And I want to know in this connection what was the necessity of having that line drawn so carefully by the surveyor across the plan of the first day. What has been the significance of that thing by which it was made to appear that a surveyor could find a line clear from a point on the street to the barn door? And you were asked to squint across there. You saw that you could not see the fraction of a rabbit that came out of that barn door. Has that any connection with the first attempt at Lubinsky? I do not know. It is one of those things they have started and have flashed in the pan. Medley was the first one there. He got the news before 11:30. He took a team that was coming up the street, and drove as fast as he could drive it. He went to the station house and got the men, started for the Borden house, and as he went by the city hall clock it was nineteen or twenty minutes before 12. He went there; he went into the house. He saw Miss Borden. He came out and went into the barn. Other men did the same thing. It occurred to many, he went there first because he was the one that found the door shut, and the others, excepting these wonderful boy detectives, found it open. All the contradiction of Medley is an attempt to contradict him about time. Something has been said, Mr. Foreman and gentlemen, as to the conduct of the defendant during this trying time. In my desire to say no word that is not borne out by the exact facts, I forbear to criticise or to ask you to consider against her her general demeanor after this tragedy. I quite agree for once with my distinguished friend in his suggestion that the absence of tears, that the icy demeanor may have either meant consciousness of guilt or consciousness of loss.

I would not lift the weight of my finger to urge that this woman remarkable though she is, nervy as she is, brave as she is, cool as she is, should be condemned because grief, it may have been, but for other things in the case, drove back the tears to their source and forbade her to show the emotions that belong to the sex. But there are some things that are pregnant. My distinguished friend tells of the frequency of presentiments. They are frequent in the storybooks, Mr. Foreman. If they occur in real life they are usually thought of afterward. Did you ever hear one expressed beforehand? Tell me that this woman was physically incapable of that deed? My

distinguished friend has not read female character enough to know that when a woman dares she dares, and when she will she will, and that given a woman that has that absolute command of herself who told Mrs. Reagan even, that the failure to break that egg was the first time she had ever failed in anything she undertook, a woman whose courage surpassed that of any man I am talking to, I very humbly believe—tell me that she is physically incapable of this act? But those are trifles, Mr. Foreman. Those are trifles. Those are little chips that do not perhaps directly indicate which way the current flows. But there is more in the case than that. Of course the question arises to one's lips. How could she have avoided the spattering of her dress with blood if she was the author of these crimes? As to the first crime, it is scarcely necessary to attempt to answer the question. In the solitude of that house, with ample fire in the stove, with ample wit of woman nobody has suggested that as to the first crime there was not ample opportunity, ample means and that nothing could be suggested as a reason why all the evidence of that crime could not have been amply and successfully concealed. But as to the second murder the question is one of more difficulty. I cannot answer it. You cannot answer it. You are neither murderers nor women. You have neither the craft of the assassin nor the cunning and deftness of the sex. There are some things, however, in the case that we know, and one of them is, and perhaps one of the pregnant facts in the case is, that when the officers had completed their search, and in good faith had asked her to produce the dress she was wearing that morning, they were fooled with that garment which lies on that trunk, which was not upon her when any human being saw her. That is a pretty bold assertion. Let us see what the evidence of it is, because as to that matter the evidence is contradictory, and it is the first proposition, I believe that I have addressed touching which there is even an attempt to show contradictory evidence. I have trod on ground on which no attempt has been made to block the ordinary course of reasoning, and I now approach the first subject in which there is any attempt to show contradiction, and it turns out to be no contradiction whatever. This dress has been described to you as a silk dress and dark blue evidently, a dress with a figure which is not at all like a diamond, a dress which is not cheap, a dress which would not be worn in ironing by any prudent woman, of course not. It is an afternoon dress. Do your wives dress in silk when they go down in the kitchen to work, and in their household duties in the morning before dinner? But I am

not compelled to stay at suppositions of reasoning: I come to facts. There was one woman in this world who saw Lizzie Borden after these murders were done, and when she saw her did not suspect that murder had been done.

Who was that? It was that clear, intelligent, honest daughter of one of Fall River's most honored citizens, Adelaide Churchill. Everybody else saw her when they knew murder had been done. Addie Churchill saw her when the most she suspected was that somebody had become sick again. She describes the dress she had on that morning. I will read it, word for word, to you, because it is vital: "It looked like a light blue and white ground work; it seemed like calico or cambric, and it had a light blue and white ground work with a navy blue diamond printed on it. Was the whole dress alike, the skirt and waist? It looked so to me. Was that the dress she had on this morning (showing dark blue dress?) She did not wish to harm a hair of Lizzie's head. She was her neighbor and her friend, and she would avoid it if she could. But she answered, "It does not look like it." Mr. Moody puts it again: "Was it, was it?" Ah, Addie Churchill will have to give an answer which will convict this woman of putting up a dress which is not the one she wore. She is no police detective conspiring against her life, but her next door neighbor, her friend, and her friend to-day. When Mr. Moody puts the straight question to her: "Was it?" she answers: "That is not the dress I have described." Still it is not quite close enough. My learned friend wants it answered more closely, and asks, "Was it the dress she had on?" Mrs. Churchill can avoid answering no longer, and she says, "I did not see her with it on that morning." She further describes the dress as having the ground work of a color "like blue and white mixed." It is not the testimony of one who wants her convicted. I may well believe, I am glad to believe, although I know nothing of it, that it is the testimony of one who would rejoice if she were not convicted. Now comes another witness, who I believe would cut his heart strings before he would say a word against that woman if he could help it, and that is her physician and friend, Dr. Seabury W. Bowen, who away back in the early stages of this case gave testimony, and the testimony is all the more valuable because it comes from her intimate friend, and was given at a time when it was not supposed there was ever to be any discussion about it. He undertakes to describe the dress. Do you remember how Lizzie was dressed that morning? "It is pretty hard work for me. Probably if I could see a dress something like it I could guess, but I could not describe it; it was a sort of drab, not much color to it to attract my attention—a sort of morning calico dress, I should judge." That is not all. The morning dress she had worn many times, as Miss Emma is obliged to say, poor girl. She put it in her testimony (she wanted to help her sister) that it was very early in the morning. Oh, unfortunate expression. Did you ever know a girl to change her dress twice a morning, ever in the world? It was a morning dress, and the day before the tragedy happened Bridget tells us that that cheap morning dress, light blue with a dark figure, Wednesday morning the dress she had on was of that description, and it was this very bedford cord. Undoubtedly. She never wore it afterward. Friday she has on this dress. Saturday she has on this dress, mornings and afternoon. It is good enough for her to wear then. Perhaps there is not any distinction of morning and afternoon then in that house of the dead. We have had evidence of the character of the search that was made in the house. It can, perhaps, all be well summed up in the suggestion that the search of Thursday was perfunctory, insufficient and indecisive. It was with no particular definite aim in view. It was absolutely without any idea that the inmates of the house knew of this crime. It was that sort of a search which goes through and does not see what it ought to see. But it was enough to set them on their guard. There was in that house somewhere a bedford cord dress. That bedford cord dress had been stained with paint. I welcome that fact. My learned associate never said it had not been stained with paint. I believe it had. No, I ought not to say that. I hope, I may be corrected if I say that I believe it at any time. There is no assertion or pretence that it had not been stained with paint. It had not stopped the wearing of it, though.

It was good enough for a morning dress, good enough for an ironing dress, good enough for a chore dress around the house in the morning. But the Thursday's search had put them on their guard, and when, Saturday afternoon, the officers came there, they were prepared for the most absolutely thorough search that could be made in that house. Where was that paint stained bedford cord? Where was that dress with paint spots on it, so thickly covering it that it was not fit to wear any more? Where was it that the officers did not see it? Emma alone can tell us, and Emma tries to tell us that it was in that closet. Emma says that Saturday night she saw that dress upon the hook, and said to Lizzie "You'd better destroy this dress," and Lizzie said she would. Nobody heard that conversation

but Lizzie and Emma. So we cannot contradict their words excepting by what followed. Mark the exact use of language. Alice Russell said that when she came down stairs that morning she went into the kitchen and Lizzie stood by the stove with a dress skirt in her hand and a waist on the shelf near by, and Emma turned round and said to her, "Lizzie, what are you going to do?" "I am going to burn this old thing up. It is all covered with paint." There is scarcely a fact that is not incriminating against Lizzie. Mrs. Reagan has come on the stand and told upon her oath against a woman who is her friend, with whom she had no difficulties and who is of her own sex, against whom she can have no object of resentment or hatred, as to induce her to commit the foulest of crimes, has told a story which is extremely significant. I should have hesitated to express myself as to its significance were it not for the attestation of that fact by the agitation, the hurrying and scurrying, the extraordinary efforts put forth by her friends as soon as it was unadvisedly published to suppress and deny it. They saw its significance, they are unwilling witnesses to the character of the story and the way it bears upon the case. That thing took place. Mrs. Reagan has appeared before you and you are to judge whether you like her looks or not. You are to be judges of her evidence. Miss Emma, who knew what took place, never came to Mrs. Reagan, and said, "You have told a lie!" They were the ones to have denied it. They were the ones to have asked her to take it back. Miss Emma was in there the next day after the publication, and she never found it out in her heart to say to Mrs. Reagan: "Why, Mrs. Reagan, you have published an infamous and wicked lie about us!" It was these same self-constituted friends who have filled the newspapers with denunciations of delay in a trial of this cause because the appointed officer was lying sick at his home and could not attend to it, when the courteous and accomplished gentlemen, who had her interests in charge, my learned friends never complained and do not to this day complain, to their credit be it said.

I had intended, Mr. Foreman and gentlemen, at this point, to attempt to recapitulate these things to you. I do not think I will do it. If I have not made them plain they cannot be made plainer. Every one of them excepting the incident of the burning of the dress and the accuracy of the witnesses as to the dress that is produced, depend upon facts that there is no denial of. We find a woman murdered by blows which were struck with a weak and indecisive hand. We find that that woman had no enemies in all the world

excepting the daughter that had repudiated her. We find that that woman was killed at half past nine, when it passes the bounds of human credulity to believe that it could have been done without her knowledge, her presence, her sight, her hearing. We find a house guarded by night and by day so that no assassin could find lodgment in it for a moment. We find that after that body had been murdered a falsehood of the very essence of this whole case is told by that girl to explain the story to the father, who would revenge it and delay him from looking for her. We find her then set in her purpose turned into a mania, so far as responsibility is concerned, considering the question of what to do with this witness who could tell everything of that skeleton if he saw fit. He had not always told all he knew. He had forbidden telling of that burglary of Mrs. Borden's things for reasons that I do not know anything about, but which I presume were satisfactory to him, but he would not have so suppressed or concealed this tragedy, and so the devil came to her as God grant it may never come to you or me, but it may. When the old man lay sleeping she was prompted to cover her person in some imperfect way and remove him from life and conceal the evidences, so far as she could in the hurried time that was left her. She did not call Maggie until she got ready. She had fifteen minutes, which is a long time, and then called her down, and without helping the officers in one single thing, but remonstrating with them for going into her room and asking her questions—those servants of the law who were trying to favor her, never opening her mouth except to tell the story of the barn, and then a story of the note, which is all she ever told in the world. We find that woman in a house where is found in the cellar a hatchet which answers every requirement of this case, where no outside assassin could have concealed it, and where she alone could have put it. We find in that house a dress which was concealed from the officers until it was found that the search was to be resumed and safety was not longer assured. The dress was hidden from public gaze by the most extraordinary act of burning that you ever heard of in all your lives by an innocent person.

We say these things float on the great current of our thought and tell just where the stream leads to. We get down now to the elements of ordinary crime. We get hatred, we get malice, we get falsehood about the position and disposition of the body. We get absurd and impossible alibis. We get contradictory stories that are not attempted to be verified. We get fraud upon the officers by the substitution of an afternoon silk dress as the one that she was wear-

ing that morning ironing, and capping the climax by the production of evidence that is beyond all question, that there was a guilty destruction of the dress that she feared the eye of the microscope might find the blood upon. What is the defense, Mr. Foreman? What is the answer to this array of impregnable facts? Nothing, nothing. I stop and think, and I say again, nothing. Some dust thrown upon the story of Mrs. Reagan which is not of the essence of the case, some question about time put upon the acts of Mr. Medley which is not of the essence of the case; some absurd and trifling stories about drunken men the night before and dogs in the yard the night before. Of men standing quietly on the street the same day of the tragedy, exposing their bloody persons for the inspection of passersby, of a pale, irresolute man walking up the street in broad daylight. Nothing, nothing. The distinguished counsel, with all his eloquence, which I can't hope to match or approach, has attempted nothing but to say, "Not proven." But it is proven; it is proven. We cannot measure facts, Mr. Foreman. We cannot put a yardstick to them. We cannot determine the length and breadth and the thickness of them. There is only one test of facts. Do they lead us to firm belief? if they do they have done the only duty they are capable of. You cannot measure the light that shines about you; you cannot weigh it, but we know when it is light because it shines into our hearts and eyes. That is all there is to this question of reasonable doubt. Give the prisoner every vestige of benefit of it. The last question to be answered is taken from these facts together. Are you satisfied that it was done by her? I have attempted, Mr. Foreman, how imperfectly none but myself can say, to discharge the sad duty which has devolved upon me.

He who could have charmed and entertained and inspired you is still detained by sickness, and it has fallen to my lot to fill unworthily the place of the chief lawgiver of this commonwealth. But I submit these facts to you with the confidence that you are men of courage and truth. I have no other suggestion to make to you than that you shall deal with them with that courage that befits sons of Massachusetts. I do not put it on so low a ground as to ask you to avenge these horrid deaths. O, no, I do not put it even on the ground of asking you to do credit to the good old commonwealth of Massachusetts. I lift you higher than that, gentlemen. I advance you to the altitude of the conscience that must be the final master of us all. You are merciful men. The wells of mercy, I hope, are not dried up in any of us. But this is not the time nor the place for the

exercise of it. That mighty prerogative of mercy is not absent from the jurisprudence of this glorious old common wealth. It is vested in magistrates, one of the most conspicuous of whom was the honored gentleman who has addressed you before me, and to whom no appeal for mercy ever fell upon harsh or unwllling ears. Let mercy be taken care of by those to whom you have intrusted the quallty of mercy. It is not strained in the commonwealth of Massachusetts. It is not for us to discuss that. It is for us to answer questions, the responsibility of which is not with you nor with me. We neither made these laws, nor do we execute them. We are responsible only for the justice, the courage, the ability with which we meet to find an answer to the truth. Rise, gentlemen, rise to the altitude of your duty. Act as as you would act when you stand before the great white throne at the last day. What shall be your reward? The ineffable consciousness of duty done. There is no strait so hard, there is no affliction so bitter, that it is not made light and easy by the consciousness that in times of trial you have done your duty and your whole duty. There is no applause of the world, there is no station of hight, there is no seduction of fame that can compensate for the gnawings of an outraged conscience. Only he who hears the voice of his inner consciousness, it is the voice of God himself saying to him "Well done, good and faithful servant," can enter into the reward and lay hold of eternal life.