
TRIAL OF THE CENTURY

DAY ONE

Monday, June 5, 1893

From behind the New Bedford courthouse came the hum and click of a dozen trembling telegraph instruments. The entire country panted for news, and so the horse shed had been converted into headquarters for the telegraph operators. There was a floor now, and partitions to make three small rooms: one for the Postal Telegraph-Cable Company, one for Western Union, and one shared by the *Evening Standard* and the Associated Press.

Inside the courthouse, twenty-five reporters bent like schoolboys over their notepads. Sheriff Wright had personally numbered each seat in the press box and presented tickets to select newspapers. Twelve went to the Fall River and New Bedford dailies, two to nearby Attleboro and Taunton, and four to the Associated Press. The rest went to Boston's five most prominent papers. At the last minute, the prisoner's dock had been hastily divided in half to squeeze in six more reporters from the New York papers. Every other member of the press would have to vie for a seat in the spectators' benches, like anyone else.

But today no spectators had been admitted. There was no room. One hundred fifty men had been called as potential jurors, and they filled every seat. Not one of them was from Fall River.

The only glimpses within the New Bedford courthouse that first day would come via the newspapermen, and they were determined not to let their readers miss a thing. Even before the proceedings opened, the telegraphs clattered with descriptions of the room itself: the drab walls trimmed with white, the carpeted floor liberally scattered with spittoons, the scent of wisteria and magnolia seeping in through the windows along with the sound of a cow mooing loudly in a nearby field. Two bunches of carnations, one pink and one red, sat on the judges' bench before

the three white-bearded justices: Chief Justice Albert Mason and his associates, Caleb Blodgett and Justin Dewey. Between them, the three men had amassed a total of ninety-nine years' experience with the law.

At eleven o'clock on the dot, in came the accused.

"Those who saw Miss Borden for the first time were very much astonished," the *Boston Globe* noted. "Her newspaper portraits have done her no justice at all."

They had expected a monster, a virtual Medusa with hair of serpents and a gaze of stone. Instead, a shockingly ordinary New England spinster walked across the room and sat down in the prisoner's dock, seemingly unaffected by the hundreds of stares that greeted her.

Even the most seasoned journalists were surprised. "It has been said again and again that this maiden prisoner is a great strong woman, capable of extraordinary physical exertion," said the famous Julian Ralph of the *New York Sun*. "It is not so. She is very little, if anything, above average stature of women. She is not of large build; she does not look to weigh more than 135 pounds at the outside, and if her arms, which cannot be seen in her puffed sleeves, are large and muscular, they assuredly terminate in very small and ladylike hands."

"Some have made her out a hard and hideous fright," the *Globe* observed, "and others have flattered her." Suddenly, it did not matter how many times she had been described before. Hardly a reporter in the room could resist the opportunity to do it yet again.

They assessed every inch of her, from the blue feather in her black hat right down to her "common sense, broad-toed, brand new shoe," noting when she wiped the perspiration from her face or bit nervously at her fan. And yet with the woman sitting before them, with nothing to do but look her over while the lawyers

consumed the entire day selecting a jury, the papers still could not fully agree on Lizzie Borden's appearance.

Her dress was black, trimmed with bands of velvet ribbon at the hem and cuffs, but whether it was brocade, mohair, or merino, "cut in the latest style" or "of a very old fashion," depended entirely on whether the information came out of Boston or New Bedford. A large enamel pin in the shape of a pansy nestled at her throat. One reporter thought it "modest," another "rather loud." The *Boston Globe*, still feeling the sting of the Trickey-McHenry debacle, tended to be complimentary whenever possible. "Her dress fitted her as perfectly as if she had been measured for it in Paris," it said. (She had been measured not in Paris but in Taunton Jail. Ten months with little exercise to counteract the many boxes of sweets sent from well-meaning friends meant that a seamstress had to be called in to let out some of Lizzie's dresses for the trial.)

Other papers were not inclined to be so courteous. They discussed her face as though they were measuring it for wallpaper, with talk of perpendicular lines dropped from this point to that, the distance between the bridge and the tip of the nose, whether her forehead protruded more than her chin. That chin was "obstinate and stubborn," proclaimed Joe Howard of the *Boston Globe*, one of the most famous journalists of the day. The lips were too thick, the eyes set too wide apart, the cheekbones too high, yet the cheeks themselves too full and heavy.

The problem was simple: those who believed her guilty wanted—needed—Lizzie Borden to look the part of a coarse and brutish killer. Those who favored her innocence required a dainty, delicate lady. Lizzie Borden was neither. She was only herself, and as everyone had come to expect, her outward appearance gave little indication of the personality within.

DAY TWO*Tuesday, June 6, 1893*

Mr. Moody, the young district attorney from Essex County, rose from the prosecutor's table and approached the rail of the jury box. Twelve grave-faced men looked back at him. With his blond hair, bright blue eyes, and trim mustache, Moody looked like a boy compared with the dozen bearded, balding jurors. This was William Moody's first murder case, and it had fallen to him to open the trial of the century.

THE JURY

George Potter, farmer, age 54, Westport

William F. Dean, farmer, age 54, Taunton

John Wilbur, farmer, housewright, and surveyor, age
60, Somerset

Frederick C. Wilbur, cabinetmaker, age 36,
Raynham

Lemuel K. Wilbur, farmer, age 56, Easton

William Westcot, farmer, age 48, Seekonk

Lewis B. Hodges, iron moulder, age 59, Taunton

Augustus Swift, manufacturer, age 42, New Bedford

Francis G. Cole, jeweler, age 49, Attleboro

John C. Finn, painter, age 35, Taunton

Charles I. Richards, real estate and town assessor, age
64, North Attleboro (elected foreman)

Allen H. Wordell, agricultural retailer, age 45,
Dartmouth

The moment he began to speak, Lizzie's eyes snapped toward him. Lizzie Borden, who had spent her courtroom hours staring fixedly at the carpet, or the corner of a desk, suddenly followed Mr. Moody with as much interest as any of the hundred-odd spectators behind her.

He spoke, as he promised the jury, "in the plainest, simplest and most direct manner," doing his best not to overburden them with details that were bound to come out in the evidence. Even so, Moody took the better part of two hours to outline the government's case.

Much of what he told the jurors was old news to anyone who had been following the case: the indications of an unkindly feeling between Lizzie and Abby Borden, the Bordens' Tuesday-night illness, Mrs. Borden's fears of poisoning, Eli Bence's claim that Lizzie had tried to buy prussic acid Wednesday morning, and Lizzie's worrisome Wednesday-night visit with Alice Russell. He guided them through the layout of the house and the movements of the family from the locking of the doors Wednesday night to the discovery of the bodies Thursday morning. He covered Lizzie's wavering alibi, the note from Mrs. Borden's sick friend that had never materialized, and the confounding results of Professor Wood's examinations.

Meanwhile, the mercury climbed steadily toward 93 degrees, until even the judges had trouble keeping their eyes open.

Then Moody said, "On the morning of Sunday Miss Russell came into the kitchen," and the courtroom perked up with interest. At last, the burning of the dress. "It was a dress which the prisoner had purchased in the spring of that year, a cotton dress and not a silk dress like this." Moody held up a dark blue dress for the jury to see, then tossed it down to the table. As he did, a flutter of tissue paper at the top of a nearby handbag caught

Lizzie Borden's eye. Beneath it she glimpsed the crowns of her parents' bald, bleached skulls. Up went her big black fan, hiding her flushed face from the court, and there it stayed while Moody riveted the court with Alice Russell's revelation and then an exhibition of the handleless hatchet.

"The Commonwealth will prove that there was an unkindly feeling between the prisoner and her step-mother," Moody declared as he drew to a close, "that upon Wednesday, August 3, she was dwelling upon murder and preparing herself with a weapon which had no innocent use; that upon the evening of Wednesday, August 3, she was predicting disaster and cataloguing defences." No one but the prisoner, Moody said, was in the house from the time Mrs. Borden went upstairs to change the pillow slips until Lizzie came down stairs an hour later. No other human being could have done it, Moody told the jury, because it could not be done without intimate knowledge of the inside of that house and the habits of that family.

"We shall prove that this prisoner made contradictory statements about her whereabouts, and, above all, gave a statement vitally different upon the manner in which she discovered these homicides. We shall prove beyond all reasonable doubt that this death of Mrs. Borden's was a prior death. Then we shall ask you to say, if say you can, whether any other reasonable hypothesis except that of the guilt of this prisoner can account for the sad occurrences which happened upon the morning of August fourth."

Moody was done. There was no applause, just a patient wondering—what would come next? No one could have guessed.

For two days Lizzie Borden had sat, the *Boston Globe* said, "like a graven image," hardly moving except to wave her Japanese fan or rest her head on the rail behind her.

Now, someone noticed, "the fan and the arm that held it up

dropped upon the prisoner's lap. Her head was back against the rail, her eyes were shut, her mouth was open, and her breast heaved with very long breaths. 'Lizzie Borden's asleep,' was the whisper that galloped through the court room."

The sheriff gently shook her arm. "He might as well have shaken a pump handle," the *Globe* remarked. Her head lolled, her face went purplish.

Lizzie Borden was not asleep—she was unconscious.

The hot and drowsy courtroom sprang to life. Someone sat her up. Reverend Jubb fanned her; the deputy sheriff brought a glass of water. Lizzie seemed to half come to, and Reverend Jubb demanded her smelling salts. "Her hand went into her pocket mechanically and came out with a little cut glass bottle in it. Then she put both hands on the arm of her chair and fell back against the railing, not half over her faint."

Finally, she had done what a woman under intense strain was supposed to do: "Lizzie Borden, the sphinx of coolness, who has so often been accused of never manifesting a feminine feeling, had fainted," marveled the *Fall River Globe*.

DAY THREE

Wednesday, June 7, 1893

Overnight, Lizzie Borden had become human. "Since her fainting yesterday she is regarded as being full of startling possibilities," said the *Rochester Democrat & Chronicle*. Women of all ages, from society matrons to work girls in calico, abandoned their children and their jobs for the day to come watch her. "Valentines and daisies," the press soon dubbed the female spectators.

To many, the third day felt like the first real day of the trial.

Today there would be nothing but testimony. The mood in court was high. A northeast wind had broken the oppressive heat. Even Lizzie Borden seemed in high spirits. "To-day she held her head up, looking at everything out of bright eyes, moved her chair about and shifted herself in it quite like any one else."

But a courtroom, as the valentines and daisies soon found out, is a mostly boring place.

The first witness, surveyor Thomas Kieran, sounded like a talking yardstick as he answered question after question about the measurements and blueprints he had made of the Borden house and its vicinity. Even the judges were bored.

Then came Lawyer Jennings's turn with Kieran. "At the time you were making measurements of the closets on the lower floor of the Borden house, was your attention called particularly to the size of the closet in the front hall?"

"It was."

"Did you see at that time any experiment performed as to whether a person could or could not go in there and have the door completely shut?"

Jennings knew perfectly well what the answer would be. He himself had stepped into that closet and shut the door behind him. Finding that he fit, Jennings stepped out, put his assistant inside, and called Kieran's attention to the experiment. Even with the door slightly ajar, Kieran told the jury, he had failed to see anyone standing inside. If a lawyer could hide in there, the jurors had no choice but to assume, a murderer could, too.

Jennings had landed his first punch for the defense—and with one of the prosecution's own witnesses. Nor was he finished.

Upstairs, Kieran's assistant had lain down on the floor where Mrs. Borden was found. Kieran discovered he could not see any part of the man's body from Lizzie Borden's doorway, even though his assistant was so much taller than Mrs. Borden that

his feet stuck out beyond the end of the bed. (Mrs. Brigham and Uncle Morse had performed an identical experiment, with identical results, the jury later learned. The bed made it impossible to see the body, even from the guest-room doorway.) Only when Kieran paused at the center of a certain step with his eyes level with the floor could he see anyone lying there. As soon as his head rose above the bottom of the bed, the body became undetectable.

Knowlton followed with his star witness: Bridget Sullivan. Just twenty-six years old. Irish. She had spent the last seven years doing nothing more interesting than cooking other people's dinners, sweeping their floors, and washing their clothes. Under any other circumstances, no one would have taken the slightest notice of her life. Now the mere mention of her name, the sight of her in a maroon dress, feathered hat, and black kid gloves, caused a sensation in the courtroom. No one knows a family better than its maid, and everyone, down to Lizzie Borden herself, wanted to hear what this girl who had refused to set foot in the Borden house since the first day of the inquest now had to say about them.

Mr. Moody questioned her carefully, politely. There were no secrets or dark revelations to pry out of her. All he needed was a straightforward account of the morning of August 4. As she had done at the inquest and preliminary hearing, Bridget delivered. She spoke so softly, yet her answers were firm. No one could or would give so many details about that morning. Bridget knew who had gotten up when, what they had eaten, where Mr. Borden had dumped his slop pail. It was Bridget who vouched for nearly every time the screen door was hooked or unhooked.

BREAKFAST WITH THE BORDENS

Cold boiled mutton, warmed-over mutton broth, bread and butter, johnnycakes, sugar cookies, bananas, pears, and coffee—people have been wrinkling their noses and cracking jokes at Andrew and Abby Borden's last breakfast for over a century. Even at a time when dishes like pie and pork steak were commonplace on the breakfast table, the Bordens' menu struck many as peculiar, particularly for a well-to-do household.

"A smile played about the lips of Miss Sullivan whenever any reference was made to the component parts of the meals served at the Borden house," wrote Fall River's *Herald* on June 8. "She laughed at the mutton and cold mutton, and mutton broth, just as others have laughed at the same thing. Lizzie laughed, too, at the mutton."

One of the most enduring Borden myths is that rotting leftover mutton caused the family's sickness before the murder. Impossible—the infamous mutton did not debut until Wednesday noon—the day *after* Mr. and Mrs. Borden endured a miserable night of vomiting. The culprit was more likely the fried swordfish they'd eaten for dinner and supper Tuesday.

Aside from her headache, everything about that morning had been perfectly normal: starting the fire, unlocking the door, taking in the milk, putting out the pan for the iceman, getting the breakfast.

The Bordens did nothing out of the ordinary, either. Mr. and Mrs. Borden sat down to breakfast with Mr. Morse by 7:15. Lizzie

slept in. When they finished, they rang the bell and went into the sitting room. Bridget sat down in Mr. Borden's chair and had her own breakfast, then cleared away. Next thing she noticed, Mr. Morse was leaving. Bridget saw him go, and heard Mr. Borden invite him back to dinner.

Five minutes or so later, Bridget couldn't say for sure, Lizzie appeared in the kitchen. "I asked her what did she want for her breakfast," Bridget testified. "She said she didn't want any breakfast but she felt as if she should have something, she guessed she would have some coffee and cookies."

Just then, Bridget's breakfast rebelled. Out she went to be sick in the yard. She could not say how long she stayed there—ten or fifteen minutes, perhaps? By the time she returned to her sink full of dishes, Lizzie was gone. There was no sign of Mr. Borden, either. Bridget finished her dishes and carried them into the dining room, where she found Mrs. Borden busy with the feather duster. "She said she wanted the windows washed. I asked her how, and she said 'inside and outside both, they are awful dirty.'" Near as Bridget could figure, it was around nine o'clock. That was the last time she saw Mrs. Borden alive.

As Bridget headed out the screen door with her pail and brush, Lizzie appeared in the entry and asked Bridget if she was going to wash windows.

"Yes," Bridget said. "You needn't lock the door; I will be out around here, but you can lock it if you want to; I can get the water in the barn."

Lizzie did not hook the door behind her.

Bridget went all the way around to the opposite side of the house to begin with the sitting room windows. First she stopped and chatted over the fence with the neighbor's maid; then with her long-handled brush she washed her way around three sides of the house, going back and forth to the spigot in the barn about

half a dozen times to refill her pail. In between the washing and the rinsing, she popped into the kitchen for a dipper to fling clean water onto the soapy panes.

During all that time—probably while Mrs. Borden was being murdered—she'd seen nothing out of the ordinary in the yard, barn, or kitchen. She noticed no one on the other side of the sitting or dining room windows. Moody did not specifically ask whether she'd seen anyone through the parlor windows. In fact, Moody had never asked if she actually could see *through* any of the windows.

Whether this was an intentional sleight of hand on Mr. Moody's part did not matter once Governor Robinson began his cross-examination. He was brilliant at it, the *Rochester Democrat & Chronicle* noted: "With his queer spectacles, which have only half a glass for each eye, poised on the end of his nose, he seems so fatherly, and he has such a friendly and sympathetic air that there is no withstanding him. But, whenever he and a witness are getting along swimmingly, let that witness look out. In two jerks, the ex-governor will make him tell what he does not want to."

Often he did it by wording his questions as if he were thinking aloud. "On the outside of the parlor you say the blinds were closed when you went around there?" he asked Bridget.

"I know they was closed on the front part any way."

"But you can't tell us at all whether the parlor curtains or shutters on the inside were closed?"

"I can't remember how they were."

Then came the question he'd been intending to ask all along: "Whether anybody was in that room you can't tell?"

"No, sir, I couldn't."

He did it again with the dining room windows, chatting amiably about their height and position until he came to the pertinent point:

"Can't see in, can you?"

"I can't see," Bridget admitted, rather as if the thought had not occurred to her before—not unless someone stood right up against the panes, she guessed.

Once inside, Bridget had washed just half of one sitting room window before she heard Mr. Borden's key rattling uselessly at the front door. She let Mr. Borden in, spluttering at the infernal bolts and locks, and returned to her work without another word. The last Bridget saw of Mr. Borden, he was reading the paper in a rocking chair in the sitting room. As she finished up the dining room windows, Lizzie came in and set up the little ironing board on the table to press her hankies.

"Maggie," Lizzie said, using her nickname for Bridget, "are you going out this afternoon?"

"I don't know; I might and I might not; I don't feel very well."

"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."

"Miss Lizzie, who is sick?"

"I don't know; she had a note this morning; it must be in town."

There was still an hour yet before dinner. Bridget went up to her attic room and lay down. Three, maybe four minutes later, the city hall clock tolled eleven times. No more than fifteen minutes after that, Bridget said, the cry came up the stairs:

"Maggie, come down!"

DAY FOUR

Thursday, June 8, 1893

At the calling of Alice Russell's name, Lizzie's face went livid. She straightened up in her chair and watched the door. One paper said Alice looked everywhere but at Lizzie as she walked in;

another reported that her pale blue eyes blazed at the sight of her old friend in the prisoner's dock.

"[E]xtremely trim in her manner," the bombastic columnist Joe Howard told his readers, Miss Russell "holds her mouth as though *prisms* and *prunes* were its most frequent utterances." As she testified, he noted that "with crossed arms, she emphasizes her replies with little taps with a bombazine fan."

Moody began with Lizzie's Wednesday-night visit to Alice's house. Alice, who at the preliminary hearing had been asked by a frustrated Knowlton, "Do you remember anything that took place at all?" now recalled enough of Lizzie's forebodings to cover five pages of stenographer's notepaper. Her memory of the day of the murder had not improved, however: "I cannot tell it in order, for it is very disconnected," she said. "I remember very little of it." But Alice distinctly remembered Lizzie standing by the stove Sunday morning, tearing up a dress. It was a cheap cotton dress, a light blue Bedford cord with a small dark figure printed on it. The hem was soiled—Lizzie had held the edge up for Alice to see—and what she saw of it was not bloodstained. Alice Russell was emphatic on that point. Alice also made it clear that she had not actually seen Lizzie burn the dress. She heard Lizzie say that she was going to do it, saw her tearing a portion of it up, and saw another piece of it on the shelf in the cupboard. That was all.

Nevertheless, the implication was obvious: Lizzie Borden had not turned over the right dress to the police. That Bedford cord, the prosecution alleged, was the reason no one, from Bridget to the neighbors to the police, had seen one speck of blood on Lizzie Borden from the instant the crime was discovered. She'd somehow managed to keep it hidden during the searches, then burned it Sunday morning—in plain view of the officers standing guard in the yard outside.

Could Lizzie Borden have pulled off something so brazen with

such a crucial piece of evidence? Was that blue Bedford cord, in fact, the same dress she had worn Thursday morning?

Hard to tell. The dress Lizzie provided to the police apparently has not survived. Only a handful of people had seen what Lizzie was wearing before she changed into her pink-and-white striped wrapper, and since none of them realized at the time that it would become a vital piece of evidence, their attempts to describe it ten months later do not paint a vivid—much less consistent—picture.

DESCRIBING LIZZIE'S DRESS

BRIDGET SULLIVAN:

"I couldn't tell what dress the girl had on."

MRS. CHURCHILL:

"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 dark navy blue diamond printed on it."

ALICE RUSSELL:

"[I]t was loose here (indicating some part of the bosom) when I started to unloosen them. That is the only thing about the dress I notice[d]."

DR. BOWEN:

"It was an ordinary, unattractive, common dress that I did not notice specially."

CHARLES SAWYER:

"I couldn't tell you the colors, as I know of."

INSPECTOR PATRICK DOHERTY:

"I thought she had a light blue dress with a bosom in the waist, or something like a bosom. . . . I thought there was a small figure on the dress, a little spot like."

Mrs. Churchill's description was far and away the most specific, but her credibility eroded under Governor Robinson's cross-examination, when she guessed that Bridget was wearing a light calico dress. Bridget Sullivan's dress that day had been a dark indigo blue with a white clover leaf. Alice Russell's dress was a complete blank to her.

Bridget's dress also brought Inspector Doherty's powers of observation into question when he called it "kind of a brown." That was easy enough to explain—Patrick Doherty was color-blind. At the preliminary hearing, when asked to point out a garment or object the same shade of blue as Lizzie Borden's dress, Doherty had selected a white necktie.

Dr. Bowen's wife had been there, too, but her recollections were a mess. At one of the earlier proceedings, she'd apparently testified to "[a] white dress with a waist with blue material, a white spray running right through it." At the trial it became a dark dress with a round figure or flower on the waist.

Realizing the discrepancy, Knowlton asked, "It is not a spray that is on the dress?"

"I should say not," Mrs. Bowen answered. "I did not mean a dress with any white," she said, "but dark blue, the dress with a blouse, that had the figure in it." She was not sure whether the print was a figure or a spray.

BLOUSES, WAISTS, AND WRAPPERS

The garment called a *waist* had nothing to do with a woman's waistline. It was short for "shirtwaist"—the bodice of a two-piece dress. A loose bodice was called a *blouse waist*, or a *bosom*, while a tight-fitting one was known as a *basque*.

Wrappers, though they sound for all the world like bathrobes, were simple form-fitting house dresses with a front closure and a ribbon or sash to cinch the waistline.

Lizzie herself had said nothing about a print, describing the dress only as "navy blue, sort of a bengaline or India silk skirt, with a navy blue blouse."

Each time a witness was called, the evidence swung from one side to the other. It did not help that Lizzie Borden owned no less than eight blue dresses, nor that the attorneys doing the questioning were three-quarters inept when it came to the style and terminology of ladies' fashions. Every woman in court laughed at Moody's and Knowlton's attempt to properly lay out Lizzie's bengaline silk for the witnesses to examine, for the two men could not find the waistline.

But even the ladies were occasionally at a loss. Mrs. Churchill was unfamiliar with Bedford cord material, so she could not say whether the dress she remembered from Thursday morning was made of Bedford cord or not. "I thought it was a cotton dress of some kind," she said, not realizing that Lizzie's Bedford cord was cotton. Yet Alice Russell testified that she had seen the Bedford cord exactly twice: first when it was new, then the Sunday after the homicide, and never again in between.

BENGALINE SILK AND BEDFORD CORD

One sounds like silk, the other corduroy. Neither is quite what it seems. Bengaline offers the look of silk for a fraction of the cost, by weaving fine silk threads around strands of wool, cotton, or, in Lizzie Borden's case, linen. The combination results in a ribbed fabric with a silky sheen.

Bedford cord is also ribbed and relatively inexpensive but lacks both the sheen of bengaline and the velvety texture of corduroy.

Out of seven witnesses, only Mrs. Bowen recognized the navy blue bengaline silk displayed by the prosecution as the one Lizzie had worn Thursday morning.

It was a jury's nightmare.

Regardless of what Lizzie's dress looked like, the question of how could she have kept the police from finding it remained. The prosecution called Assistant Marshal John Fleet to the stand to answer to that.

It would be unfair to say the initial search on Thursday, August 4, had been cursory. Mr. Moody's questioning showed that Fleet and his fellow officers had been all over the Borden property during the course of that first day, and they looked everywhere. The very first policeman dispatched to 92 Second Street on August 4, Officer George Allen, had opened the kitchen cupboard where Alice Russell eventually saw the Bedford cord before he returned to the station for backup. The issue was a matter of focus. The officers were making a broad sweep of the house, looking

for the weapon, the criminal—items so glaring they couldn't be called clues.

So when Fleet asked Lizzie to unlock the clothes press upstairs, he had no expectation of finding anything, and no intention of pausing to examine every garment right then and there. The assistant marshal was only covering his bases, and he was up-front about it on the witness stand.

"How much of an inspection or search did you make in that room at that time?" Mr. Moody asked.

"We just looked over the clothing, looked round the floor, and up on the shelf. We did not search very closely."

It was not an unreasonable approach, but to hear Governor Robinson's cross-examination, it sounded as though the police had done no more than look under the beds for the bogeyman. A whole new side of Robinson emerged to deal with the assistant marshal. The fatherly gentleman made himself irritable, stern, and impatient, and within five minutes he was under Fleet's skin.

Governor Robinson treaded a delicate line, though. He needed to show it was possible for the police to have overlooked the Bedford cord, but he needed to do it in exactly the right way. Make the police appear incompetent, and Robinson risked leaving room for the jury to believe Lizzie could have successfully hidden the dress from the officers. Fleet made it almost too easy.

Q. Would you have seen any paint the way you looked?

A. I don't think that I should.

Q. Would you have seen any blood the way you looked?

A. Not without it was on the outside, right before my eyes. I didn't look at them close enough to notice.

indeed directed Fleet to the box where the first two hatchets had been found.

"What did you do after you showed him the box?" Mr. Moody asked.

"He took a hatchet out of there."

Mullaly described the hatchet head just as Fleet had done: smaller than the rest, both sides of the blade covered in ashes, its handle freshly broken. The ashes, Mullaly said, "looked so as though it was rubbed on there, wiped on, would be my way of expressing it," but he'd noticed no ashes on the broken handle.

"What did Mr. Fleet do with it after each of you had observed it?" Moody asked.

"I believe he put it back."

That ought to have settled it. Then came Governor Robinson's turn with Mullaly.

"Do you know anything of what became of the box?" Robinson asked.

"No, sir."

"Nothing else was taken out of it while you were there?"

"Nothing but the hatchet and parts of the handle," Mullaly said.

"Well, parts," Robinson said dismissively. He indicated the little stump of wood that had been removed from the eye of the hatchet at Harvard's chemistry lab. "That piece?"

"That piece, yes," Mullaly said.

"Well, that was in the eye, wasn't it?"

"Yes; then there was another piece."

"Another piece of what?"

And then Mullaly dropped his thunderbolt.

"Handle."

Governor Robinson gasped. District Attorney Knowlton and Mr. Moody sat rigid in their seats, dumbstruck. Since the

opening arguments the prosecution had been steering the jury toward the conclusion that this handleless hatchet was the murder weapon, its blade clumsily masked with ashes and the bloodstained handle broken off and tossed into the stove. With one word, the state's own witness had blown the theory to shreds. If the handle had been there all along, clean, dry, and bloodless, that hatchet could not have been used to kill the Bordens.

The defense was no less astounded. The courtroom reeled in silent shock as Robinson continued, rapid-fire.

"Well, did you take it out of the box?"

"I did not."

"Did you see it taken out?"

"I did."

"Who took it out?"

"Mr. Fleet took it out."

"Mr. Fleet took it out?"

"Yes, sir."

"You were there?"

"I was there."

"Anybody else?"

"Not as I know of."

"Did Mr. Fleet put that back too?"

"He did."

Robinson glared at the prosecution's table. "Have you that handle here, gentlemen?"

"No," Knowlton said.

"You haven't it in your possession, may I ask?"

"Never had it."

"The government does not know where it is?"

Knowlton sounded like another man entirely. "I don't know where it is," he said. "This is the first time I ever heard of it."

Minutes later, Assistant Marshal Fleet was back on the stand. Officer Mullaly had been sent to an anteroom to ensure the two officers could not discuss their conflicting testimony. Robinson asked Fleet to restate what he had found in the box.

"I found a hatchet head, the handle broken off, together with some other tools in there and the iron that was inside there."

The governor held up the handleless hatchet head.

"Was this what you found?"

"Yes, sir."

"Did you find anything else, except old tools?"

"No, sir."

"Sure about that?"

"Yes, sir."

As he'd done with Mullaly, Robinson indicated the wooden stub. "Now, if I understand you," he continued, "this piece was in the eye of the hatchet?"

"Yes, sir," Fleet answered.

"That has been driven out since?"

"By somebody."

"Yes, not by you. And taking these two together, that was all you found in the box, except some old tools which you did not take out at all. Is that right?"

"That is all we found in connection with that hatchet."

"You did not find the handle, the broken piece, not at all?"

"No, sir."

According to Fleet, Mullaly had not removed any handle from the box. So far as Fleet knew, there was no handle to remove.

"You looked in so that you could have seen it if it was in there?"

"Yes, sir."

"You have no doubt about that, have you at all?"

"What?"

"That you did not find the other piece of the handle that fitted on there?"

"No, sir."

"You would have seen it if it had been, wouldn't you?"

"Yes, sir, it seems to me I should."

The courtroom shivered with excitement as John Fleet stepped down. How could the two officers' testimony be so drastically different?

DAY SIX

Saturday, June 10, 1893

By Saturday, the carnations on the judges' bench were finally wilting. Or rather, half of them were. According to the *Boston Herald*, the vase of red blossoms, symbolizing bloody guilt, hung their heads. If the flowers were any indication, the prosecution needed to revive its case. The task fell to Inspector William Medley.

Medley testified to arriving at the Borden house just a little after 11:40. He'd circled the perimeter and tried the cellar door (locked) before going in and speaking to Lizzie Borden upstairs. Something she said about being up in the barn gave Medley an idea, and he went outside.

Policemen were all about the house and the yard, but the barn door was shut, fastened with a hasp and an iron pin. Medley pulled the pin and went in. He headed straight for the stairs.

Three or four steps from the top, Medley paused in the stairwell and looked around the loft. Nothing seemed to have been disturbed, not even the dust on the floor. He stooped down level with the floorboards and peered across them. If Lizzie Borden

had just been walking across that floor, Inspector Medley reasoned, shouldn't there be some marks in the dust?

"I didn't see any," Medley said, "and I reached out my hand to see if I could make an impression on the floor of the barn, and I did by putting my hand down so fashion, and found that I made an impression on the barn floor."

"How distinctly could you see the marks which you made with your hand?" Mr. Moody asked.

"I could see them quite distinctly when I looked for them," Medley answered.

"Go on and describe anything else which you did?" Moody prompted, perhaps twiddling his coattails in anticipation. Those who watched Moody carefully had noticed his habit of rolling or bundling up his coattails when his questioning went well.

"Then I stepped up on the top and took four or five steps on the outer edge of the barn floor, the edge nearest the stairs, then came up to see if I could discern those, and I did." When he stooped back down level with the floor, his footprints were plainly visible.

"Did you see any other footsteps in that dust than those which you made yourself?" Moody asked.

"No, sir."

Governor Robinson did not dwell much on Inspector Medley's troubling information about the barn. Instead, he focused most of his questions on the handleless hatchet. In his usual genial way, Robinson gathered as many details about the hatchet as he could. After all, Medley was the officer who'd first recognized the hatchet head as potentially important.

Little in Medley's cross-examination seemed significant, except for his opinion that the ashes on the hatchet head were coarse. That was new. All the other officers said they were fine.

"And you didn't look to see whether the other contents of the box were about in the same condition?" Robinson asked.

"I did not. In fact, I didn't go back there after showing it to the Captain," Medley said.

He and Captain Desmond examined it, and then, Medley said, he wrapped it up in a piece of brown paper and carried it straight down to Marshal Hilliard's office.

"You wrapped it up in a paper and folded it up," Robinson repeated. Heaven only knows what prompted him to suggest, "Perhaps you will illustrate how you folded it up in the paper."

Medley took a piece of brown paper from Robinson and folded the hatchet head into it. "I am not very tidy at such things," he apologized, handing the little parcel to Robinson. "Now that, as near as I can think, is about how I did it."

"And then you put it in your pocket?"

"I put it in my pocket."

By now, the bulk of the police's testimony was bordering on redundant. With the exception of Mullaly's sensation about the hatchet handle, it sounded as if the officers had all memorized the same basic script. Captain Dennis Desmond, at first, was no different.

He agreed with Inspector Medley about the coarseness of the dust on the hatchet head. "It was all dirty," he told Mr. Moody, "that is, it was covered with a dust which was not of a fine nature, that is, it was too coarse to be called a fine—what I mean is, it wasn't any sediment that might have collected on it from standing there any length of time: it was a loose, rough matter, which might be readily pushed off or moved by pushing your finger on it." It was not really dust, he said, but dirt.

That was a minor quibble, considering that everything he

said about the box was the same: fourteen or fifteen inches long, maybe four inches wide, filled with dusty cast-off tools and bolts and nails. Coarse or fine; ash, dust, or dirt; the key point for the prosecution was that the dust inside the box did not match the dust on the hatchet head, and Captain Desmond was positive about that.

But what he said next about Inspector Medley taking the hatchet down to the police station stopped Mr. Moody's questioning cold. "I gave it to him wrapped up in a newspaper."

Desmond had no way of knowing he'd just contradicted Officer Mullaly, and so Governor Robinson did not pounce and risk putting his witness on guard. Gradually, he worked his way toward the hatchet with questions about the search Desmond had led on August 6.

Was he certain he had done the wrapping? Robinson wanted to know.

"Positive," Captain Desmond said. "I got the paper from the water-closet there to do it up with."

Robinson handed him the hatchet head and a piece of brown paper, just as he'd offered Inspector Medley. "Well, won't you wrap it up in about as large a piece of paper?"

"I shall have to get a full-sized newspaper to do it," Desmond said, "much larger than that, sir."

Desmond settled for a *Boston Globe*, though that was still not big enough, he said. Then the entire court watched in bemused awe as Captain Dennis Desmond solemnly demonstrated how he'd rolled up the very same hatchet Inspector Medley had sworn to wrapping in brown paper.

It might have been less ridiculous if the two policemen's parcels resembled each other even slightly. But Medley's brown pa-

per packet had looked like a wedge of pie, while the *Sunday Boston Herald* called Desmond's "a great newspaper bundle big enough to conceal a pair of longshoreman's shoes."

First the hatchet handle, now this. By the next day, the Fall River Police Department was the laughingstock of all the papers.

"The handleless hatchet, now generally known as the 'hoodoo hatchet,' continued its demonish pranks in the trial of Lizzie Borden for her life today," the *Sunday Boston Herald* ribbed in a special dispatch. "It chopped another great hole in the case of which it is the most important feature."

DAY SEVEN

Monday, June 12, 1893

After a week of testimony, there was still no greater evidence in the case against Lizzie Borden than her own inquest testimony. As he had done at the preliminary hearing, District Attorney Knowlton wanted to read that mass of inconsistencies into the record, to let the jury hear for themselves how Lizzie Borden had wavered and hesitated and changed her story.

But that testimony, the defense argued, was not admissible. The issue hinged on whether Lizzie's statements at the inquest had been made voluntarily—a question the three justices had to decide.

And so, shortly after nine o'clock, the jury was sent from the room, while for two hours Governor Robinson and Mr. Moody presented their arguments.

According to Robinson, although Lizzie willingly obeyed the summons to appear at the inquest, the crucial fact was that she had testified unaware that she was already under arrest in all but name. Police surrounded her house day and night almost from

the instant the crime was discovered; the mayor himself had instructed her to stay inside. Worst of all was the secret warrant, waiting in Marshal Hilliard's pocket throughout the inquest. The very existence of that warrant proved that the authorities already believed Lizzie guilty, and yet they called her to testify. Her lawyer was not present, nor had she been informed of her right not to testify. Rather, Robinson said, "the City Marshal stood at her shoulder, authorized and directed to lay his hand upon her at any instant and make her a prisoner." After Knowlton had gotten all the information he could from her, Lizzie was not allowed to go free but was held in the matron's room until a new warrant was drawn and her arrest made official.

"If that is freedom," Robinson thundered, "God save the Commonwealth of Massachusetts!" And if anything said by a defendant under those circumstances was termed voluntary, he proclaimed, then the very meaning of the word must be changed.

The way the authorities had deliberately dodged the Constitution, Governor Robinson admonished, was "[w]orse than burning a dress."

"May it please Your Honors: I have very little to offer in reply," Mr. Moody began. Governor Robinson's argument, he acknowledged, "is magnificent, but it is not law."

Given the circumstances of the murders, Moody believed, the court had done nothing but its duty. Lizzie Borden had been summoned in the usual way, and she had appeared. Lawyer Jennings's request to be present had been declined, Moody said, "because the law expressly gives [the courts] the power to decline it."

As far as being informed of her right not to incriminate herself, Moody also acknowledged that she was not cautioned in the

courtroom before Judge Blaisdell. However, Lizzie had been permitted to consult with Lawyer Jennings before testifying. "And Your Honors can have no doubt that the reason why the caution was omitted at the beginning of this testimony was because that subject had been thoroughly talked over between counsel and client, and she knew and understood her rights." It would be an insult to Lawyer Jennings to presume otherwise.

Further, Robinson's argument assumed that the only motive for the inquest was to wrench a confession from Lizzie Borden. Why, Moody asked, didn't anyone assume that the inquest gave Lizzie Borden as much chance to clear her own name as it had given Bridget Sullivan? Similarly, Moody argued, the police surrounded the house as much to observe Bridget Sullivan and John Morse as Lizzie Borden. That was their duty.

"There was nothing in that warrant in Mr. Hilliard's pocket which changed her legal position or her legal liabilities one iota," Moody said. If the question was whether Lizzie had testified voluntarily, how could a warrant she did not even know about affect her willingness to take the stand?

When Moody finished, the three justices withdrew, and for an hour and a half the court waited for an answer. Lizzie Borden leaned forward as they filed back onto the bench.

"From the agreed facts and the facts otherwise in evidence," Chief Justice Mason said, "it is plain that the prisoner at the time of her testimony was, so far as relates to this question, as effectually in custody as if the formal precept had been served." There was more to his explanation, but only the last four words mattered to the hushed spectators: "[T]he evidence is excluded."

It was a triumph for the defense. The pears, the sinkers, the upstairs-downstairs absurdities—not one word of it would reach the jury. Lawyer Jennings and Colonel Adams beamed. Governor

Robinson's face was one giant *I told you so*. Opinions and emotions erupted throughout the courtroom until the sheriff pounded the gavel for order.

And what of Lizzie Borden?

For a moment, nothing. Then the realization flashed upon her. One bright instant of exultation lit her face, and Lizzie Borden burst into tears. She pressed her handkerchief into her eyes and buried her face in her fan, but there was no hiding it. Her whole body shook with the force of her relief.

DAY EIGHT

Tuesday, June 13, 1893

Things were getting gruesome. The pillow shams and bedspread speckled with Mrs. Borden's blood had been draped over the rail of the jury box the day before. Crime-scene photographs, stained pieces of woodwork, dresser-top marble, and blood-stiffened carpeting all made vivid appearances.

It was literally sickening. Governor Robison had had to fan Lizzie as Medical Examiner Dolan gave his painstaking recital of each blood spatter and wound, showing on a pair of plaster heads where each whack of the hatchet had fallen.

The heat did not help. A quick smattering of rain on the eighth morning brought no relief, leaving the air moist as breath as Dr. Dolan continued his grisly testimony.

It boiled down to these four points:

The blows to both victims could have been inflicted by a woman of ordinary strength, using a sharp cutting instrument with the leverage of a handle.

Furthermore, Dr. Dolan believed the assailant had stood over and astride Mrs. Borden—that is, with one foot on either side of

her body. (The significance is all but lost to us now, but in 1892, the thought of a woman standing this way was ludicrous. Women did not even part their knees to ride horseback. Only a man, it was thought, would straddle his victim.) Mr. Borden's assailant had likely stood behind him, at the head of the sofa, and chopped downward.

The slashes on the Bordens' skulls ranged from half an inch to five inches long, making it impossible for Dolan to single out any of the hatchets found on the Borden property as the murder weapon.

Although the chipped edges of some of the cuts in Mr. Borden's skull suggested the blows had fallen from left to right—indicating a left-handed murderer—Dolan decided that the angled position of Mr. Borden's head was the true cause of the left-to-right beveling, and the blows were most likely struck straight on.

It was almost too much for one juror. Shortly after Dr. Dolan pantomimed the blow to Mrs. Borden's back on one of the stenographers, fifty-nine-year-old Lewis Hodges grew faint. His distress earned the jury a five-minute recess.

The horror show had only just begun. Dr. Frank Draper, medical examiner of Suffolk County, was still to testify. At first it was all the same: measurements, skin flaps, bone chips.

And then District Attorney Knowlton asked whether there was anything in the nature or character of the wounds that would help the doctor determine the size of the weapon.

There was, Dr. Draper said, on the head of Mr. Borden.

"Would the skull itself be of assistance in pointing out such things as occur to you to be important?"

"It would."

"Then in that case, although I regret very much the necessity of doing it," Knowlton said, "I shall have to ask Dr. Dolan to

produce it." The attorneys and justices conferred for a moment; then Justice Mason quietly announced that Lizzie Borden would be excused from the room during the display.

The *New York Tribune* considered it an act of genuine mercy. All morning long Lizzie Borden "sat with red eyes and trembling lips and with deep marks in her pale face, looking as long as she could, listening as much as she could, and finally retreating in grief and tears behind her fan."

Then in came the skull of Andrew J. Borden, "done up in a white handkerchief," one reporter wrote, "and looked like a bouquet, such as a man carries to his sweetheart."

The murder weapon's blade, Dr. Draper believed, measured three and one-half inches—exactly the size of the hoodoo hatchet.

"Will you tell us what it is that leads you to that conclusion?"

Draper produced a little plate of tin cut to three and a half inches and fitted it into first one, then another of the fatal gashes on Mr. Borden's skull.

"Are you able to say whether that hatchet head," Knowlton said, displaying the hoodoo hatchet, "is capable of making those wounds?"

"I believe it is."

"Have you attempted to fit that in the wounds?"

"I have seen the attempt made."

"Will you do it yourself?"

"I will try." Dr. Draper lowered the little blade straight down into Mr. Borden's skull.

It fit.

"The handleless hatchet is not an uncommon instrument, is it?" Colonel Adams asked on cross-examination.

"No, sir," Dr. Draper said.

"It has a very general circulation?"

"I think so."

Adams produced a brand-new hatchet, its blade still glinting with gilt. "Is there anything about that which is out of the ordinary?"

"Nothing that I perceive at present, sir."

"Won't you see if you can cut that into the injury or the scar in the skull?" Adams asked. His intent was clear: if that ordinary hatchet fit Mr. Borden's skull, so might any other hatchet from any other cellar or hardware store.

The doctor touched the metal to the bone. "It does not fit the wound," he announced. The blade had not been ground down enough, Draper explained. The corners were too blunt to penetrate the skull.

There was just one problem with Dr. Draper's dramatic demonstration: there was no blood on the hoodoo hatchet. Not one microscopic speck.

Professor Wood had tested scrapings from the blade to make sure no blood was mixed with the iron rust. He had pried the wooden handle stub from the iron eye and soaked it for days in a solution of potassium iodide to determine whether any blood had seeped into the crevice between the handle and the head. The solution remained clean.

The wooden stump, Wood said, had been free of dust when he received it. Whether the sediment on the blade was ash he could not say, but in spite of all the handling and rubbing in his laboratory and the courtroom, traces of the peculiar white dust remained embedded in the hoodoo hatchet's rusty cavities. The material might adhere that way, Wood guessed, if the hatchet had been wet when it came into contact with the stuff.

If that hatchet had inflicted such wounds as were found on Mr. and Mrs. Borden's skulls, District Attorney Knowlton wanted to know, could it be washed clean?

Colonel Adams objected.

"He may answer," Justice Mason ruled.

"Before the handle was broken, not after," Wood said.

"Why do you make that difference, Professor?" Knowlton asked while Adams continued to object, to no avail.

"Because it would be very hard to wash blood off that broken end," Professor Wood said.

"A little louder," Knowlton prodded.

"It would be almost impossible to quickly wash blood out of that broken end. It might have been done by thorough cleansing, but that would also stain the fracture."

It could be done. But could Lizzie Borden—could anyone—have washed that hatchet so thoroughly and so quickly?

DAY NINE

Wednesday, June 14, 1893

District Attorney Knowlton's case was closing in on Lizzie Borden. Marshal Hilliard and Mayor Coughlin told the jury of Lizzie's surprising response to being informed she was a suspect: *I am ready to go at any time.* Cloakmaker Hannah Gifford swore she had heard Lizzie refer to Mrs. Borden as "a mean, good for nothing thing," now adding the detail that she had inadvertently triggered Lizzie's outburst by referring to Mrs. Borden as "mother."

Then the prosecution called a set of six witnesses to eliminate possible escape routes from the scene of the crime.

Next door to the north, Mrs. Churchill's boarder, Thomas Bowles, was washing a carriage at the end of the driveway, where

he could look across Mrs. Churchill's yard and see the Bordens' well house.

Directly behind the Churchill lot, a young French girl named Lucy Collette spent an hour sitting out in front of Dr. Chagnon's house, at the northeast end of the doctor's big double lot. To her right lay the Chagnon orchard, which bordered the back of the Bordens' property.

The Chagnons' neighbor to the north, Mrs. Aruba Kirby, was at work in her kitchen all morning, where she had a view of the passage leading into Dr. Chagnon's barn. She remembered looking out the window around 11:30.

South of Chagnon's orchard, in the Crowe yard kitty-corner to the Bordens, two laborers—Joseph DeRosier and John Denny—worked all morning long sawing wood and cutting stone. Sometime between 10:10 and 10:30, a third laborer, named Patrick McGowan, climbed a sawhorse in Crowe's yard and leaned right up over the Bordens' fence to snatch a few ripe pears from their tree.

Not one of them saw anybody enter or leave the Borden property, or anyone cutting through the adjoining yards.

Oddly enough, that was good news for Lizzie Borden. Deputy Sheriff Francis Wixon had climbed the Borden lumber pile and gotten himself up onto the top rail of the six-foot barbed-wire-topped fence at the back of the Bordens' yard between 11:45 and noon that day. He'd shimmied along the whole length of the fence rail before jumping down onto Crowe's lumber pile, completely unnoticed until he spoke to DeRosier. Escaping over the fence would be a gamble for any killer, not knowing who was nearby and which way they might be looking. But if Deputy Wixon had done it, couldn't a murderer?

No one had forgotten the newspaper story of the quarrel Matron Reagan had overheard between Lizzie and Emma Borden, and all the hullabaloo that had followed—how the matron at first contradicted the papers, then refused, by order of the city marshal, to sign her name to an official denial. If she had anything to say about it, Marshal Hilliard had ordered her, the witness stand was the place for it.

Now Matron Hannah Reagan stood in that witness box, ready to testify for the government. “Now will you go on and describe in your own way what occurred after Miss Emma came,” Mr. Moody asked, “the time that elapsed, and all that was said and done?”

With noticeable zeal and encyclopedic detail, Matron Reagan recited the whole story—from the moment Emma arrived in Lizzie’s cell at 8:40 until Lawyer Jennings came in over two hours later—just as the papers had printed it.

Lawyer Jennings rose to cross-examine her—Lawyer Jennings, whose arrival that day had supposedly interrupted the sisters’ stony silence following their quarrel.

“Did Miss Emma come again that day?” Jennings asked.

“In the afternoon, sir.”

“What time did she come in the afternoon?”

“I never kept the time of when she came. She came at all hours of the day.”

She could not have left Jennings a better opening. “You say she came at just twenty minutes of nine that morning, and now when I ask you what time she came in the afternoon you say you didn’t keep the time?”

Matron Reagan’s testimony began to quake beneath her. She could not say what time Emma had come that afternoon, or who else had been there—only that there had been lots of visitors. Reverend Buck was one, she said.

“Are you sure he came that same afternoon?” Jennings asked.

"Well, I know we had visitors that afternoon and I think Mr. Buck came."

"Well, how sure are you of that?"

"Well, he came every day," she explained. "There wasn't a day while Miss Borden was there that he hadn't come to the central police station."

"How do you know he didn't come in the morning?"

"No, he didn't come that time in the morning."

"Are you sure he came in the afternoon?"

Perhaps Jennings was only bluffing. If he was, it paid off.

"I couldn't say about it," Matron Reagan said.

"Have you any recollection about it?"

"No," she said, "I was taken away with this trouble so much that it upset me, Mr. Jennings." The sisters' quarrel so disturbed her, she claimed, that she could not remember at all what happened in the afternoon.

"Now let me go a little further and see if I can refresh your recollection," Jennings offered. "Don't you remember that Mrs. Holmes was there that afternoon and you had some conversation about an egg?"

She did indeed. Matron Reagan told all about the afternoon with the egg, the whole amusing conversation, right down to who was sitting where.

"Had quite a pleasant time all the afternoon, didn't you?" Jennings remarked.

"The day of the breaking of the egg we did, laughed and talked," the matron said.

"Well, the afternoon of the breaking of the egg you weren't very much disturbed, were you?"

"No, sir."

He had set a trap, and the matron had fallen in. She knew it, and she could not hide it.

Jennings could not resist driving the point further yet. "Had quite a pleasant afternoon that afternoon, didn't you?"

"Well, I don't know as it was very pleasant," she retorted, "not to me."

Matron Reagan had backed herself into an awful corner. If Jennings undermined her credibility enough to make it appear that she had lied to the papers about that quarrel, she would likely lose her job. But if by changing her story she perjured herself before the Superior Court of Bristol County, she would fare no better.

"Wasn't that afternoon of the egg episode about as pleasant an afternoon as you had had while Miss Lizzie was there?" Jennings pressed.

"I can't answer that," Matron Reagan said. As far as the defense was concerned, she already had.

Lizzie Borden sat forward in her chair and glared at Eli Bence as he took the stand. The directness of her gaze so unnerved the young druggist that he blushed and stammered, "I do," before the clerk of the court finished reciting the oath.

Mr. Bence answered only eight questions before Governor Robinson interrupted. The defense had no intention of letting the druggist tell the jury about the woman who attempted to buy poison from him on August 3. They would not even be allowed to hear the lawyers argue the point, and were sent from the room before the words "prussic acid" were uttered.

Without a prescription, Mr. Moody contended, there was no practical use for prussic acid. Anyone asking for it over the counter must have a sinister purpose in mind, and Eli Bence's testimony would prove that Lizzie Borden had made just such an attempt.

"You propose to bring evidence upon attempts, but not success?" Governor Robinson asked.

"Yes, sir," Knowlton said.

Robinson balked. "She is charged in this indictment with slaying or killing these two people with a sharp instrument; committing the murder with an axe, for instance. Nothing else." Poison had nothing to do with Andrew and Abby Borden's deaths; Professor Wood's testimony had proven that. A failed attempt to buy prussic acid was lean evidence, as far as Robinson was concerned.

Moody argued it showed premeditation, proving that Lizzie Borden was in a murderous state of mind on the third of August. "I can conceive of no more significant act," he concluded, "nothing which tends to show more the purpose of doing mischief to some one than the attempt . . . to obtain one of the most deadly poisons that is known to human kind at the present time."

Governor Robinson insisted that the simple act of asking a druggist for prussic acid proved nothing, especially when Lizzie Borden had shown no prior indication of violence toward her parents—toward anyone at all, for that matter. A statement of intent, Robinson argued, was a critical element in the cases Moody had cited. "But here there is nothing of that," Robinson pointed out. "It is entirely absent." As for the poison itself, Robinson shrugged it off as of little consequence. "Well, people buy prussic acid to kill animals—it may be the cat. That is innocent. It is not a crime, at any rate."

The court agreed. Eli Bence's testimony was excluded.

DAY TEN

Thursday, June 15, 1893

With that, the prosecution rested. Eli Bence's testimony was supposed to be Knowlton's climax. Without it, he had nothing left, and his case closed with a "dull thud" instead of a bang.

The time had come for Lizzie Borden's lawyers, the best legal team money could buy, to have their say.

Already their actions had said plenty. The defense, the *New York Tribune* noted, appeared to have deliberately allowed the prosecution considerable leeway. Robinson, Jennings, and Adams rarely raised objections, resisted interrupting or trying to confuse the government's witnesses, and for the most part sat passively by while Moody and Knowlton coached their witnesses with leading questions. Although the defense's tactic was considered old-fashioned even then, it nevertheless conveyed an air of confidence, silently suggesting that Lizzie Borden had nothing to hide, nothing to fear from the prosecution's evidence. It worked so well that a rumor was circulating that the defense would turn the case over to the jury without another word.

Robinson, Jennings, and Adams were not quite that bold, but they were brief—the defense would take only two days to present Lizzie's case.

As he had done at the preliminary hearing, Lawyer Jennings opened by appealing first to emotion rather than reason, explaining to the jury his lifelong personal connection with the Borden family. "I want to say right here and now, if I manifest more feeling than perhaps you think necessary in making an opening statement for the defence in this case, you will ascribe it to that cause. The counsel, Mr. Foreman and gentlemen, does not cease to be a man when he becomes a lawyer."

Jennings focused on the contrast between the brutality of the murder and Lizzie Borden herself. "We shall show you that this young woman, as I have said, had apparently led an honorable, spotless life; she was a member of the church; she was interested in church matters; she was connected with various organizations for charitable work; she was ever ready to help in any good thing, in any good deed; and yet for some reason or other the govern-

ment in its investigation seemed to fasten the crime upon her." The only thing more shocking than the crime itself, he asserted, was the fact that such a woman stood accused of it.

"I say this is a mysterious case," Jennings acknowledged. "Everybody, every thinking man, must say the same." But, he reminded them, their task was *not* to solve the mystery. "The issue is a simple and direct one. The Commonwealth here has charged that Lizzie Andrew Borden, in a certain way, at a certain time, killed Andrew Jackson Borden and Abby Durfee Borden with malice aforethought. And that, and that alone, is the question that you are to answer: did she on that day commit that deed? [D]id she commit it in the way alleged?"

The evidence the prosecution had presented, he stressed, was purely circumstantial. "There is not a spot of blood, there is not a weapon that they have connected with her in any way, shape, or fashion. They have not had her hand touch it or her eye see it or her ear hear of it."

At best, there was also only half a motive. All along the government's case had pointed to a single murderer, yet regardless of how Lizzie felt about her stepmother, they had not attempted to show a reason for her to murder her father.

Nor had Knowlton produced the murder weapon. Once Professor Wood's preliminary hearing testimony ruled out the claw-headed hatchet, Jennings noted with perceptible sarcasm, they had quietly substituted the hoodoo hatchet in its place. But they had not connected any of them to Lizzie Borden.

Then came the question of exclusive opportunity. Jennings reminded the jury that the prosecution had failed to rule out the possibility of a murderer escaping from the house. In addition, Jennings said, "there has not been a living soul put on the stand here to testify that they saw Andrew J. Borden come down street from his house. From his house to the Union Savings Bank he has

been absolutely invisible. Was it any easier for him to be [unseen] than it would be for somebody escaping from this house if they walked quietly away?" Not only that, but other strange people had been seen in the vicinity—"people who have not been located or identified."

Everything else, Jennings promised—Miss Lizzie's visit to the barn, Officer Medley's failure to find her footprints, the Bedford cord—could and would be explained.

In view of that and of all that had come before, Jennings concluded, "[W]e shall ask you to say, Mr. Foreman and gentlemen, whether the government have satisfied you beyond a reasonable doubt that she did kill not only her stepmother, Abby Durfee Borden, but her loved and loving father, Andrew Jackson Borden on the fourth day of August last."

Lizzie Borden was in tears. After nine days of suspicion and scrutiny, Lawyer Jennings's earnest, eloquent voice pleading on her behalf for an hour straight had undone her. "She had learned to brace herself against adversity and unkindness," the *Boston Herald* sympathized, "but mercy and active friendliness were so new that she broke down before them."

From the moment the prosecution rested, the whole tone of the trial changed. Outside, the pavement was still hot enough to vaporize a splash of water, but something like a breath of fresh air had found its way into the courtroom. Witnesses testified for minutes rather than hours at a time. People laughed—spectators and attorneys on both sides alike—rendering poor Sheriff Wright indignant. Lizzie Borden stopped looking silently into her lap and talked brightly with her lawyers, the conversation "punctured with smiles and ripples of laughter that she silenced in her handkerchief."

Lawyer Jennings struck first with a series of witnesses who had all seen suspicious characters in the vicinity of the Borden house on August 3 and 4.

Late on the night before the murder, Miss Martha Chagnon and her stepmother had been frightened by a noise—something that sounded like footsteps or pounding on wood—coming from the direction of the Borden fence. It lasted for five minutes, on and off.

At about the same time, their neighbors to the north came across a stranger, senseless and unresponsive but apparently not intoxicated, sprawled on the steps leading from the sidewalk in front of the Kirby house. Mr. Kirby hollered at the fellow and tried to shake him awake, with no luck.

Around 9:45 or 9:50 the next morning, Mrs. Delia Manley and her sister noticed a young man they had never seen before loitering at the Bordens' north gate, leaning his arm on the gatepost. The way he watched and listened to what was going on in the street made the sisters think he was nosy or uneasy.

Then there was the uncommonly pale young man Dr. Handy had seen walking slowly up Second Street with his eyes fixed on the sidewalk between 10:20 and 10:40. Everything about him—his pallor, agitation, and gait, combined with an expression so intense he seemed utterly oblivious to his surroundings—made the doctor slow his carriage and turn to watch. Later, it seemed to Dr. Handy that he had seen that man once before—on Second Street.

District Attorney Knowlton hardly needed to roll up his sleeves to discredit a good deal of that testimony.

The Chagnons' windows were shut, Knowlton discovered, and the women did not investigate the source of the sound. For all they knew, he pointed out, it might have come from the nearby icehouse, with its wooden carts and wooden floors. Whatever the

noise was, it did not disturb their big Newfoundland dog enough to rouse him from the porch.

Knowlton barely trifled with the young man leaning on the Borden gatepost, except to make it clear that he was standing right out in the open, making no attempt to conceal his face or hands or anything else about himself. He was so unremarkable that the sisters who saw him nearly walked right by without noticing him at all. Nor could they describe him other than to say that he was about thirty, dressed in light-colored clothing.

Dr. Handy had it worst of all. From the moment he learned of the murder, he was convinced the pale stranger he'd seen was "just nerving himself up to go in and commit the crime." But Handy's reaction amounted to a gut feeling, next to impossible to express in a concrete way.

"He was moving very slowly," Handy tried to explain, "and I imagined that he was—"

"I beg your pardon," Knowlton interrupted. "I didn't ask you what you imagined."

It all seemed so flimsy by the time Knowlton was done.

Next came the matter of the locks: three on the front door, a hook on the back screen, and keys to nearly every door on the inside. How could any of those suspicious characters get into what Knowlton had called "the most uniquely locked house in Fall River"?

According to Lawyer Jennings's next witness, Andrew Borden's cousin, Jerome C. Borden, it could be done without even trying. At two o'clock in the afternoon on the day after the murders, with a police officer leaning on the front fence, Jerome walked right up to the front door and let himself in.

"Did you ring before you opened the door?" Jennings asked.

"I did not."

"What did you do? Tell us exactly what you did."

"I walked up the steps, and took hold of the door-knob, and turned it, and pushed the door open."

The court would not allow Jerome to tell whether anyone inside was surprised to see him walk in, but the very fact that Lawyer Jennings attempted to ask the question had likely given away the answer.

The problem turned out to be the spring lock. If the door was not slammed hard, the lock would not catch. John Morse had noticed it, as had Mrs. Brigham. "I found that unless the bolt was used that the spring lock was not sure," she said on the witness stand. "Unless the door was shut with a bang you could not depend upon the spring lock working."

"What is your name?" Jennings asked his next witness.

"Hymon Lubinsky," the young man answered, and everyone knew at once that he was a foreigner. Only eighteen or nineteen years old, he'd been born in Russia and now peddled ice cream in Fall River.

Every morning at ten-thirty he fetched his team from Gardner's stable on Second Street and drove downstreet to Mr. Wilkinson's confectionary to load up his wagon. But on August 4, he'd been running late. His horse was still eating when he arrived, and Lubinsky had to wait. It was a little after eleven by the time he left.

"Well," Jennings asked, "when you got to the Borden house did you see anybody on the premises?"

"Yes, sir."

"Whom did you see?"

"I saw a lady come out the way from the barn right to the

stairs back of the house—the north side stairs, from the back of the house.”

Lubinsky's English was not entirely clear. “Right side of what?” Lawyer Jennings asked.

“I saw a lady come out the way from the barn right to the stairs from the back of the house.”

“Can you tell how she was dressed?”

“She had on a dark colored dress.”

A woman in a dark dress walking from the barn to the house a few minutes past eleven o'clock. Could it have been Lizzie Borden, just as she'd said all along? Could it have been anyone else?

“Had you ever seen the servant who worked in that house?” Jennings asked.

“Yes, sir,” Lubinsky answered.

“Had you ever delivered any ice cream to her?”

“Yes, sir.”

“How long before this?”

“Oh, two or three weeks before the murder.”

“Was the woman you saw the servant?” Jennings asked.

Again Lubinsky's command of English obscured his answer. “I saw the servant and the woman too.”

“Was the woman you saw the day of the murder the same woman as the servant?” Jennings asked.

“No, sir.”

“Are you sure about that?”

“I am sure about it.”

Knowlton came at Lubinsky like an angry bear, bewildering him with a merciless barrage of questions. “You ask too fast,” Lubinsky finally protested, “I can't understand what you mean.” Yet Knowlton could not shake the young peddler's story. Even if Lubinsky could not always express himself clearly, his confi-

dence was evident, insisting he'd left the stable—just two blocks up from the Borden house—by 11:05 or 11:10.

Knowlton did eventually score a small victory: he clarified that Lubinsky had seen the woman coming from the direction of the barn, as opposed to actually witnessing her leave the barn itself. No matter how Knowlton pushed, Lubinsky remained adamant about everything else he had seen. "What has a person got eyes for," he said, "but to look with?"

Next Jennings called Thomas Barlow and Eyerett Brown—just two teenage boys, who happened to be fooling around on Second Street on the most legendary morning in Fall River's history.

"When you arrived near the Borden house did you see any person leave the yard?" Lawyer Jennings asked Thomas.

"Yes, sir." It was Inspector Doherty, headed toward Spring Street at a run. That had gotten their attention.

"What did you do then?"

"We went in the side gate."

"You say 'we.' Who?"

"Me and Brownie."

"Well, tell us what you did now?"

"We went up to Mr. Sawyer, he was on the back steps, and asked him to let us go in the house, and he wouldn't let us in, so we went in the barn."

Once they worked up the nerve to go inside, Thomas and Brownie dared each other to go up into the loft, where they spent about five minutes hunting for murderers in the hay and looking out the windows. Then they came down, pulled the door closed, and put the pin back in the hasp where they'd found it.

THE HEAT

"How was the heat up in the barn compared with it out in the sun?" Lawyer Jennings asked Thomas Barlow.

"It was cooler up in the barn than it was out doors," the boy answered.

Eyebrows must have raised on both sides of the courtroom. Anyone with a barn or attic of their own knew perfectly well how uncomfortable the upper story of a building gets on a summer's day, and for many, that alone was enough to throw Lizzie's alibi into doubt.

Every one of the police officers said that barn was hot. *Extremely hot. Close. Stifling.* Assistant Marshal Fleet thought it was one of the hottest days they'd had that summer. Even the peddler Lubinsky agreed it was a hot day, and who would know better than an ice cream man? Since the preliminary hearing in September, District Attorney Knowlton had been saying that the fourth of August was one of the hottest days of the year, and the defense had never contradicted him.

Someone should have, because it simply was not so. It was not even the hottest day in August. According to the United States Signal Service, the highest temperature recorded in Fall River, Massachusetts, on August 4, 1892, was a pleasant 83 degrees—at two p.m.

Midmorning it had been a tad cooler. The *Fall River Evening News* reported 79 degrees at eleven a.m., and two tiny details prove that the members of the Borden household found the weather far from sweltering: Before Andrew Borden settled down on the sofa for

his fatal nap, he'd put on his reefer—a cardigan-like jacket. Minutes later, Bridget Sullivan grabbed a shawl when she ran out to fetch Dr. Bowen.

“Do you know Officer Medley?” Jennings asked.

“No, sir,” Thomas answered.

“Was there any Officer there at the side gate when you went in?”

“No, sir.”

“Any on the walk?”

“No, sir.”

“Any on the steps?”

“No, sir.”

The court was delighted, so amused by the boys' responses that the sheriff had to rap several times for order. District Attorney Knowlton did not share in the merriment. “Me and Brownie” had left Inspector Medley's claim of finding no footprints in the loft quite literally in the dust. Again and again, he pressed both of them to state what time they'd entered the barn. To his relief, neither boy could.

As it turned out, stating the time wasn't necessary. The events Thomas and Brownie witnessed were enough to single out the minutes between 11:37 and 11:40—just in time to see Inspector Doherty take off to telephone the marshal, and moments before Officer Allen returned with backup.

It also did not matter that neither of the boys had noticed Inspector Medley's arrival. Brownie had virtually guaranteed they'd arrived first when he told Jennings, “I seen Officer Fleet when he was coming up the walk.” By that time the boys were back down in the yard, with the barn door fastened behind them. Medley had testified that he was on the Borden lot only “a minute or two”

before Fleet arrived, and there was no way Medley could have gotten in and out of the barn in that scant two minutes without running smack into the boys. Medley himself had ruled out that possibility when he said that he spent eight to ten minutes in the yard and house before heading out to the barn. That meant that by his own estimation, Inspector Medley entered the barn a good five minutes after Thomas and Brownie left.

If that was so, how had he missed their footprints?

THE CROWE BARN HATCHET

"I'VE FOUND LIZZIE BORDEN'S HATCHET!"

The cry came from the roof of John Crowe's barn, just behind the Bordens' yard, on the evening of June 15. A boy trying to retrieve a lost ball had discovered it—the handle weathered, the three-and-three-quarter-inch blade spotted with rust. But beneath the rust, a glint of gilt, indicating the hatchet had been new when it was lost.

Almost no one would realize the significance of that detail until 1989, when District Attorney Knowlton's papers were donated to the Fall River Historical Society. Among his correspondence was a letter from Medical Examiner Frank W. Draper dated May 31, 1893, which revealed an extraordinary fact never brought to light during the trial:

"[O]n one of the cuts in Mrs. Borden's skull, near the right ear, there is a very small but unmistakable deposit of the gilt metal with which hatchets are ornamented when they leave the factory; this deposit (Dr. Cheever confirmed this observation fully) means

that the hatchet used in killing Mrs. Borden was a new hatchet, not long out of the store."

The Crowe barn hatchet remains missing to this day.

DAY ELEVEN

Friday, June 16, 1893

The heat had broken, stilling the constant flutter of paper fans. Governor Robinson sported a new pair of trousers for the second day in a row. His associates had proclaimed them lucky and insisted he wear them until the end of the trial.

Most of that eleventh morning had been devoted to beating the Matron Reagan fiasco into the ground, with four different witnesses swearing under oath that the matron had privately denied the story of the sisters' argument to each of them. Inspector Medley's footprint testimony—now dubbed Medley's cake walk by the defense—had also been trampled by a *Fall River Globe* reporter who'd explored the barn even before Thomas and Brownie.

In the spectators' seats, however, interest in these details was growing stale. The people had come for what they hoped would be the defense's grand finale: Miss Emma Borden, sister of the accused.

From the blue feather in her hat to the tips of her patent-leather boots, Emma was her sister's double. But her frame was more delicate, her chin less prominent than Lizzie's. One look at her seemed enough to conclude that Emma was the milder of the two sisters. The heartbreak of the last ten months was so plain upon

her face that no matter what people thought of Lizzie, they felt for Emma.

Emma began by reading the balances of Lizzie's four bank accounts at the time of the murder, totaling \$2,811 (almost \$70,000 today). There were stocks in a local bank and mill as well. She did not have to say it outright—the figures spoke for themselves. Lizzie Borden was no millionaire, but she had no need of money.

Next Emma touched ever-so-lightly on the affection between Lizzie and their father, speaking of a ring belonging to Mr. Borden—the only article of jewelry he'd worn for the last ten or fifteen years. Lizzie had given it to him, Emma told the jury, and he'd worn it so constantly ever since that he had been buried with it.

Finally, the subject everyone was waiting for: the Bedford cord. Everything Emma said about it aligned with Alice Russell's testimony—when it was made, the style and cut, the color and fabric, the paint stains.

"Now where was that dress, if you know, on Saturday, the day of the search?" Lawyer Jennings asked.

"I saw it hanging in the clothes press over the front entry," Emma said.

"At what time?"

"I don't know exactly; I think about nine o'clock in the evening."

"How came you to see it at that time?"

"I went in to hang up the dress that I had been wearing during the day," Emma explained, "and there was no vacant nail, and I searched round to find a nail, and I noticed this dress."

Had she said anything to Lizzie about that? Jennings wanted to know.

"I said, 'You have not destroyed that old dress yet; why don't you?'"

It was like something out of a novel—Lizzie's steadfast sister, the only remaining member of her immediate family, shouldering the blame for Lizzie's most incriminating act. Could it be true? No one who knew Miss Emma Borden would dream of doubting her word. But some of the jurors must have wondered, if only for an instant: did Emma's loyalty run so deep that she would lie under oath to save her baby sister from the gallows?

Underneath her placid exterior, Emma Borden had as much of the Borden mettle as her sister, and it appeared the instant the district attorney confronted her. "[U]pon Mr. Knowlton she turned a cold, steely eye, a set mouth and a proudly erect head," wrote the *Rochester Democrat & Chronicle*. "She nerved herself for him at the start, and she never relaxed her bold, calm demeanor for an instant."

Both Emma and the district attorney knew this was Knowlton's last chance to prove one of his most vital points. No one but Emma was left to testify about the relationship between Lizzie and Mrs. Borden.

Always, it came down to the rift over Bertie Whitehead's house.

"And do you say that the relations were entirely cordial between Lizzie and your stepmother after that event?" Knowlton asked.

"Yes, I do," Emma answered.

"Have you ever said differently?"

"I think not."

"Did your sister change the form of address to her mother at that time?"

"I can't tell you whether it was at that time or not."

"She formerly called her 'Mother,' didn't she?"

"Yes, sir."

"She ceased to call her 'Mother,' didn't she, practically?"

"Yes, sir."

"And wasn't it about at that time that she ceased to call her 'Mother'?"

"I don't remember," Emma said.

Knowlton poked and prodded, but Emma would not admit to any link between the two events.

"And don't you recall that was sometime in connection with the transaction in relation to the house?" Knowlton persisted.

"No, sir," Emma declared, "I do not know when it was."

Nor would she accept the notion that she herself had been the first to ask Lizzie what she was doing with the Bedford cord on Sunday morning. "Wasn't the first thing said by anybody, 'Lizzie, what are you going to do with that dress?'" Knowlton asked.

"No sir," said Emma, "I don't remember it so."

If he could just get Emma to admit to asking that one question, it would compromise her own claim that she had told Lizzie to destroy the dress the night before.

"Why doesn't it seem so to you, if I may ask you?"

"Why, because, the first I knew about it, my sister spoke to me."

"That is what I thought you would say," Knowlton remarked. He could only push so hard. Emma Borden was easily the most tragic figure in the whole affair—the motherless little girl who had grown up to see her father murdered and her sister tried for the crime. Knowlton could not afford to badger her in front of the jury. And Emma Borden would not give one inch.

DAY TWELVE

Monday, June 19, 1893

The evidence was in. All that stood between Lizzie Borden and the jury were Governor Robinson and District Attorney Knowlton's closing arguments. It promised to be the greatest courtroom battle the state had ever seen, a contest between Robinson's smooth tongue and Knowlton's incisive mind. The prize: Lizzie Borden's life.

All the surprises and contradictions and exclusions had left Knowlton's case weaker than anyone—including the district attorney himself—could have anticipated. Governor Robinson had practically been handed the opportunity to pulverize the prosecution, yet he did not seize it.

Perhaps it was because the governor knew Lizzie Borden's greatest danger no longer came from within the courtroom. "You will need at the outset, gentlemen," he told the jury, "to dismiss from your minds entirely—entirely—entirely—everything that the press ever said about this case, anything that your neighbors have ever said about it, anything that you have ever heard about it except in this Court room at this time. Every rumor that has run about, every idle tale or every true tale that has been told, you must banish from your minds absolutely and forever. . . .

"I have no right to tell you that I believe so and so about this case," Robinson continued in the same vein. "I may believe all I want to, but my duty is to keep it inside of me, that is all."

It was good legal theory, but for a man as persuasive and engaging as Governor Robinson, it was a disappointment. Robinson's strength was never in the words he chose but in the way he said them. Always, the rise and fall of his voice, his movements, his personality, drove his points home. Yet at this critical hour, he chose to hold his personal feelings for the case in check.

Not that he wasn't expressive. He was by turns earnest, sarcastic, forceful. But something was missing. Robinson's argument "never reached into the heart," the *Evening Standard* lamented, never sounded "a note of triumph," never once boldly declared Lizzie's innocence.

For four hours, he explained and justified Lizzie's actions, when really there was no need. As Robinson himself said, the Commonwealth had not proven one single thing Mr. Moody had promised in his opening remarks. They had failed to show that Lizzie hated her stepmother, that she was plotting murder, or that she had made contradictory statements about her whereabouts during the crime. The prosecution had not proven motive or exclusive opportunity, had not even produced the weapon. Why, no matter which hatchet the police put forward, Robinson mocked, Professor Wood exonerated it. They never would have resorted to the dusty, broken hoodoo hatchet at all if the others hadn't been ruled out. They would have convicted her on rust and a cow's hair.

Nor would it do to judge her by the emotions she had or had not expressed throughout her ordeal, Robinson said. Lizzie Borden was innocent because the prosecution had not proven her otherwise. That was the law.

"Gentlemen," he pleaded, "with great weariness on your part, but with abundant patience and intelligence and care you have listened to what I have had to offer. So far as you are concerned it is the last word of the defendant to you. Take it; take care of her as you have and give us promptly your verdict 'not guilty' that she may go home and be Lizzie Andrew Borden of Fall River in that blood stained and wrecked home where she has passed her life so many years."

Robinson sat down and put his head into his hands. Beside him, Lizzie Borden silently reached out and touched his arm.

With the exclusion of Eli Bence's and Lizzie's inquest testimony, two out of three legs had been kicked out from under the district attorney's case. Time and again the police officers had contradicted themselves, causing yet more evidence to disintegrate before his eyes. And so, having proved almost nothing, Hosea Knowlton relied almost entirely on what he believed.

The effect was unmistakable. Even those outside the courtroom were struck by the tremendous vigor of his argument as it rumbled through the open windows.

"You couldn't see the gestures, you couldn't see the gleam of the eye, but you could stand in the shade of the wide spreading trees and hear the rise and fall of the tones and then it was easy to imagine the severe words they represented," marveled the *Boston Globe*.

"Murder is the work of stealth and craft," Knowlton reminded the jury, "in which there are not only no witnesses, but the traces are attempted to be obliterated." No one would ever know precisely what had gone on behind those tightly locked doors—whether in the years before or the moments after the murder.

But circumstantial evidence could be every bit as satisfying as direct evidence, Knowlton argued, and he provided a startlingly conspicuous example: "Nobody that has told of it has seen Lizzie Andrew Borden burn that Bedford cord dress. There is not a witness to it." And yet nobody, not even the defense, ever tried to claim that dress had not been burned.

From there, Knowlton plunged forward, creating an image of Lizzie Borden that would last over a century—a cunning, savage Lizzie Borden, seething with unexpressed hatred. There had been only tiny glimpses of it before, he said, but one August morning

that pent-up rage had finally driven Lizzie to climb the stairs and smash her stepmother to pieces.

"But Lizzie Andrew Borden, the daughter of Andrew Jackson Borden, never came down those stairs," Knowlton proclaimed. "It was not Lizzie Andrew Borden, the daughter of Andrew J. 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 affection, to the most consummate criminal we have read of in all our history or works of fiction."

It was an ingenious approach. No one doubted Lizzie's remarkable self-control. The jurors had seen it with their own eyes. And they had also seen it suddenly desert her, when she fainted during the prosecution's opening remarks. It was almost impossible to keep from wondering if Knowlton could be right.

Lizzie herself seemed riveted by Knowlton's argument. During Governor Robinson's closing, she had bent her fan around her face and stared into her lap. Now she kept her gaze fixed straight on the district attorney as he spun his tale, staking his entire case on a missing piece of evidence: the note.

As far as Knowlton was concerned, the fact that no note calling Mrs. Borden to the bedside of a sick friend had ever appeared, that neither the woman who had written it nor the boy who delivered it had ever come forward, proved that Lizzie had lied about her stepmother's whereabouts. And there was no reason for her to invent that note unless she had murdered Mrs. Borden.

Lizzie Borden had killed her stepmother in a fit of passion, Knowlton declared, without any thought of how she would answer to her father for what she had done. The imaginary note bought her time, time in which to conceive what Knowlton called "a wicked and dreadful necessity"—the murder of her father.

The risk and the strategy of Knowlton's argument were as-

ounding. He had transformed his case's greatest weakness into the backbone of a chilling, compelling scenario. Where Robinson claimed that the lack of evidence proved Lizzie Borden innocent, Knowlton used it to pronounce her guilt.

Only the jury could decide.

DAY THIRTEEN

Tuesday, June 20, 1893

"Lizzie Andrew Borden," said Chief Justice Mason, "although you have now been fully heard by counsel, it is your privilege to add any word which you may desire to say in person to the jury. You now have that opportunity."

Lizzie stood and spoke just thirteen words: "I am innocent," she said. "I leave it to my counsel to speak for me."

Then the jury stood for its charge from Justice Dewey. He explained all the usual legalities: the prisoner was to be presumed innocent unless the prosecution had proven otherwise. No evidence from the inquest or preliminary hearing could be considered, nor anything Lizzie Borden had said or done since her arrest. Certainly nothing the newspapers said held any weight. He defined reasonable doubt and affirmed the validity of circumstantial evidence.

But that was far from all.

Straying well outside the customary bounds, Justice Dewey cautioned the jury against stretching the testimony that Lizzie had once called her stepmother a mean, good-for-nothing thing in order to fit the government's theory of motive. One rude and careless remark, Dewey obviously believed, should not outweigh what he called "the general tenor of their lives." He undermined the crux of Knowlton's closing argument, suggesting that it made

no sense for Lizzie to invent an imaginary note she could not account for instead of simply telling her father Mrs. Borden had gone out. Without ever mentioning it specifically, he discounted Lizzie's infamous remark to Assistant Marshal Fleet, reminding the jurors to consider whether she had ever obstructed any searches or refused to answer any questions. And of course, the dress. Could they, he asked, fit all the witnesses' various descriptions together into a single, identifiable dress?

Justice Dewey spoke for almost an hour and a half. It was all worded as neutrally as possible, framed in questions and suggestions; yet there was no doubt. Justice Dewey expected—virtually requested—a verdict of not guilty.

After all that, could those twelve men possibly find her otherwise? "There is so little absolute evidence that everybody can interpret the probabilities and the circumstantial indications to suit himself," the *New York Times* pointed out, "and much will depend upon his general view of human nature and its capabilities."

At 3:24, the jurors marched out and the wait began.

Not long after, a square parcel arrived for Miss Lizzie Borden. She opened the lid and her face brightened. Inside lay a large bouquet of cut flowers. Such a small kindness in such a dark hour, but it was enough to make her smile.

Barely an hour later, the reporters' seats suddenly began to fill.

Lizzie Borden went white, then flushed. Within two minutes, judges and jury were back in their places.

"Lizzie Andrew Borden, stand up," said the clerk. She was so pale she might have been made of marble, if only marble could quiver. "Gentlemen of the jury, have you agreed upon your verdict?"

The soft fluttering of paper fans seemed to crackle and snap in the momentous quiet.

"We have," said Foreman Richards.

"Lizzie Andrew Borden, hold up your right hand," the clerk commanded. Lizzie detached her hand from the rail of the prisoner's dock. She had been clutching it as though she were the only thing holding it up. "Mr. Foreman, look upon the prisoner; prisoner, look upon the foreman."

The jurors did an about-face and gazed as one on Lizzie Borden. Everyone in the courtroom knew from their faces what the verdict would be. But Lizzie could not make herself look. Her eyes would not obey. They lolled in a great dread-filled circle, seeing nothing.

"What say you, Mr. Foreman—"

"Not guilty," the foreman interrupted.

Lizzie Borden dropped as though she'd been shot. A reporter twelve feet away felt the walnut rail shake beneath him as she crashed down onto it, her face buried in her arms. And then the tears, all the tears she had held so tight within herself through all those ten long months, burst free.

Cheers rattled the courthouse and tumbled out into the streets of New Bedford. Handkerchiefs waved like little lace-edged banners. Tears shone in the judges' eyes, and in the sheriff's. "Thank God!" Lawyer Jennings exclaimed, his voice breaking as he squeezed Colonel Adams's hand. The colonel could not say a word. Governor Robinson beamed upon the jury like a proud new father. Trembling with relief, Jennings pushed his way to the dock and tried to lift Lizzie's head from the rail. It was more than either of them could manage. Only one small bare hand emerged to clasp his.

Ever the gentleman, District Attorney Knowlton crossed the room to shake hands with his opponent, never betraying a trace of disappointment at the verdict. Then, wrote the *Rochester Democrat & Chronicle*, "Mr. Robinson dodged under the rail of the bar

and pushed by the now useless deputy who guarded the prisoner. He stooped down and put his face against hers. Presently his left arm slipped round her waist and, like the father he has been to her, he raised her up."

At the sight of her tearstained face and waving handkerchief, a jubilant crowd swarmed so thickly around Lizzie Borden, it blocked Emma's path to her sister. Mrs. Holmes and Reverend Buck reached Lizzie first. Close behind came Colonel Adams, reaching for her with both hands. And then the jury, marching one by one to shake her hand. "She gave them a wealth of glad smiles, greeting each of them with a fresh sparkle of her eyes, a warm grasp of hand and a look so grateful and kindly that the heart of every man among them must have been touched."

His arm still around her, Governor Robinson led Lizzie to a small anteroom, where Lawyer Jennings barred the door from all but her most intimate friends. There at last Lizzie sank into her sister's arms. "I want to go home," she told Emma, "take me straight home tonight."

"Tonight?"

"Yes, tonight," Lizzie said. "I want to see the old place and settle down at once."

The crowds outside the courthouse in New Bedford cheered for ten minutes, pushing and shoving around her carriage for the chance to shake her hand. Her wreath of smiles, her excited flush, made Lizzie seem a different woman. As she waved her handkerchief to the well-wishers, it looked for all the world as though she were bidding the last of her troubles goodbye.

But the mood in Fall River was something else altogether. Three of every four people believed Lizzie Borden was guilty, and

her friends feared rudeness, even violence, awaited her at home. At the very least a crowd—if not a mob—would be gathered around Number 92.

So instead of taking the train and proceeding back to Second Street as expected, Lizzie and Emma went by carriage to the brightly lit Holmes residence on Pine Street, where the Bowens, Reverend Jubb and his family, Lawyer Jennings, and other close friends waited to celebrate. For those few hours, she reveled in her acquittal, proclaiming herself “the happiest woman in the world,” while over on Second Street a band played “Auld Lang Syne” to appease the two thousand people waiting to see her.

Lizzie Borden could not escape the public’s curiosity for much more than an evening. When the neighbors noticed her moving from room to room inside her own house in the days that followed, they told the papers. For days, people gathered on the sidewalks of Second Street or peered over the fences, hoping to spy the woman they believed had gotten away with murder.

They could not stop looking, any more than the papers could stop talking. The most mundane incidents carried headlines that sounded like the case had been cracked.

IT WASN’T MISS BORDEN, announced the *New Bedford Evening Journal* when a woman resembling Lizzie caused a stir on State Street in Boston.

IN JAIL! trumpeted the *Fall River Globe* when Lizzie boarded a train to Taunton to thank the sheriff and his wife for the care and consideration they’d shown her.

NOT AT CHURCH, the *Boston Globe* scolded the first Sunday after her acquittal. They did not know that Lizzie had managed to slip away from Fall River’s prying eyes to the seaside town of

Newport, Rhode Island, to recuperate privately from her long ordeal.

Time did nothing to quell the public's interest. When the real Lizzie Borden was at last spotted in downtown Fall River weeks later, shops and offices emptied into the street to gawk. Heads popped out of second story windows. Hoodlums and urchins trailed behind her. Even the sight of a trunk bearing the label *L. Borden, Fall River*—whether it belonged to her or not—brought gawkers running.

She could draw the curtains on her carriage tight, do her shopping discreetly in Providence, Boston, and Washington, D.C., but it made little difference. Until the end of her days, no matter where Lizzie Borden went, headlines followed.