

# Short Addresses

JAMES B. EWING





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By

James S. Ewing

To

Miss Helen Taft

from her friend

James S. Ewing

Oct-5-1911





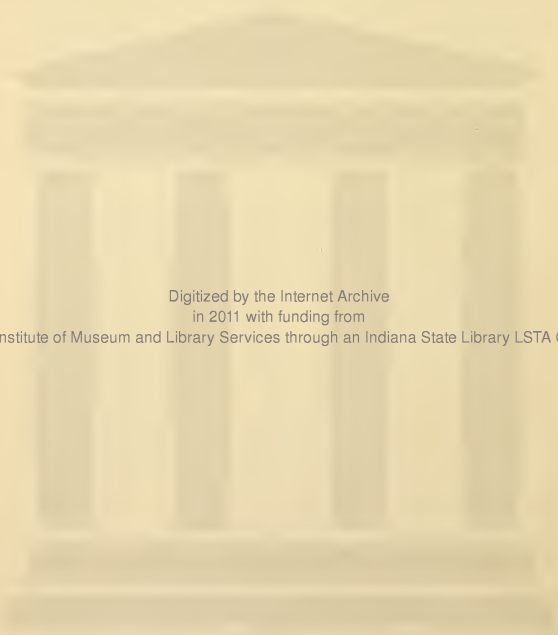


JAMES S. EWING



*During the course of a long professional life, I have had occasion to deliver quite a number of addresses on a variety of subjects. From this number, I have selected a few which are contained in this little book. It is intended for private distribution. My excuse for this modest attempt at authorship is the natural wish that, if I have said anything worth remembering, it may have a chance to live for a time, and that, amongst the people I love best.*

JAMES S. EWING



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## AN ADDRESS ON ABRAHAM LINCOLN

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At the State Convention of School Teachers Held in Bloomington,  
Illinois, February 12, A. D. 1909

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### REMINISCENCE.

During the years 1844 and 1845 my father, Mr. John W. Ewing, was the proprietor of the old National Hotel on Front Street in this city.

At that time Circuit Courts were held in McLean County twice a year and there were a number of lawyers from other counties who usually attended these terms.

Amongst those whom I especially remember as coming from Springfield and who were guests at my father's house, were Mr. James McDougal, Mr. John T. Stuart and Mr. Lincoln.

I thus became acquainted with Mr. Lincoln and I continued to know him, as a boy knows a distinguished man whom he often meets, until 1860 when he was elected President of the United States.

Mr. Lincoln was fond of children, at least he knew many of the boys and girls of the village, the children of his older friends, and often talked to them and expressed an interest in their welfare. They liked Mr. Lincoln and most of the boys in the town knew him and many of them talked to him, as we all thought, on most intimate terms.

In 1844, Mr. Lincoln was thirty-five years of age, in the very prime of his younger manhood, and dur-

ing the following fifteen years (except one term of service in Congress) he "traveled the Circuit," devoting most of his time to the practice of the law.

When I first knew anything of Courts, Hon. Samuel H. Treat was the presiding Judge of this Circuit. He was appointed to the Federal bench and the Hon. David Davis became his successor and continued as the Circuit Judge until appointed by Mr. Lincoln as an Associate Justice of the Supreme Court of the United States. It was then the habit for such lawyers as possessed sufficient experience and ability to attract a clientage, to follow the Court around the Circuit. Mr. Lincoln was of this number and more than perhaps any other, was most constant and unremitting in his attendance.

During these fifteen years, I heard Mr. Lincoln try a great many law suits. The suits themselves often dealt with trivial matters, but great men were engaged in them. Mr. Lincoln was engaged in most suits of any importance. He was wonderfully successful. He was a master in all that went to make up what is called a "jury lawyer." His wonderful power of clear and logical statement seemed the beginning and the end of the case. After his statement of the law and the facts in any particular case, we wondered either how the plaintiff came to bring such a suit, or how the defendant could be such a fool as to defend it.

By the time the jury was selected, each member of it felt that the great lawyer was his friend and was relying upon him, as a juror, to see that no injustice was done. Mr. Lincoln's ready, homely, but always pertinent illustrations, incidents and anecdotes, could not be resisted.

Few men ever lived who knew, as he did, the main springs of action, secret motives, the passions, prejudices and inclinations which inspired the actions of men and he played on the human heart as a master on an instrument.

This power over a jury was, however, the least of his claims to be entitled a good lawyer. He was masterful in a legal argument before the Court. His knowledge of the general principles of the law was extensive and accurate, and his mind was so clear and logical that he seldom made a mistake in their application.

Courteous to the court, fair to his opponent and modest in his assertions, he was certainly the model lawyer.

As for myself, I decided I would be a lawyer; and that I would be just such a lawyer as Mr. Lincoln was. Well! As a matter of fact, I didn't become just such a lawyer. My failure in that regard, to my friends was a regret rather than a surprise.

I was like my friend, Mr. Ed Gridley, who had been to hear Bishop Spalding preach, and inspired by the eloquence of the great preacher, imparted to me in confidence, that "if he had his life to live over, he would be a bishop."

While my great ambition fell so far short of realization, yet of one thing I am sure, success was very much nearer by reason of the high ideal. I believe that every young lawyer then at the Bloomington bar became a better lawyer because of Mr. Lincoln's example.

I heard Mr. Lincoln make a number of political speeches. I heard his speech in the old Court House in 1854 on the Kansas and Nebraska bill in answer to

Mr. Douglas on the same subject a few days before.

In this speech what impressed me most was that same wonderful power of statement to which I have before referred. I can never forget the manner in which he stated the causes and events which led up to the enactment of the Missouri Compromise, just what it was and how it affected the question of slavery; the history of the events and causes which led to the passage of the Compromise of 1850, its constituent elements; just what the south got and just what the north got by it and how it was affected by the repeal of the other Compromise bill.

It seems to me I could almost repeat those statements today after a half century, so vivid was their impression.

I heard his speech in the Major Hall Convention in May, 1856, spoken of sometimes as the "lost speech." But this speech did not impress me as the one of two years before, possibly because it was only one of several great speeches by other great orators: Owen Lovejoy, O. H. Browning, John M. Palmer, Archibald Williams, T. Lysle Dickey, Norton, Gridley, Farnsworth, and others, who took an active part in that historic convention.

In 1854, Judge Stephen A. Douglas came to Bloomington to make a speech defending the principles of the Kansas and Nebraska bill.

Judge Lawrence Weldon, who was then a young lawyer at Clinton, and who had come up to hear the speech, went with Mr. Stevenson and myself to call upon and pay our respects to the "Little Giant." We were presented to Judge Douglas by Mr. Anzi McWilliams, then a prominent Democratic lawyer of this city.

After we had been in Mr. Douglas' room a few minutes, Mr. Lincoln came in and the Senator and he greeted each other most cordially as old friends, and then Mr. Douglas introduced Mr. Lincoln to Judge Weldon. He said: "Mr. Lincoln, I want to introduce you to Mr. Weldon, a young lawyer who has come to Illinois from Ohio and has located at Clinton." Mr. Lincoln said, "Well, I'm glad of that. I go to Clinton sometimes myself and we will get acquainted."

This was the beginning of an acquaintance which ripened into a strong friendship and which, founded on mutual admiration and respect, grew and strengthened as the years passed, and ended only in death. They met again at Clinton, a sort of local partnership was formed, they tried law suits and rode the Circuit together. Judge Weldon was the active promoter of Mr. Lincoln's political interests, and was an elector in the campaign of 1860. I doubt if any man living knew Mr. Lincoln better, or had in a greater degree his confidence than our distinguished friend and citizen, Judge Lawrence Weldon.

In view of the recent controversy as to Mr. Lincoln's temperance principles, as to whether he was a "wine bibber" or the "president of a temperance society," the following incident may be of interest.

At this same meeting, I heard Mr. Lincoln define his position on the liquor question. This is authentic as coming from Mr. Lincoln himself and ought to settle this question forever, but it won't. The controversy will go on like the brook "forever" until each side convinces itself. This meeting I am speaking of, being a Democratic meeting, the committee had placed on the sideboard of Judge Douglas' room (probably without his knowledge) a pitcher of water, some

glasses and a decanter of red liquor. As visitors called, they were invited to partake, most of the Democrats declining.

When Mr. Lincoln arose to go, Mr. Douglas said, "Mr. Lincoln, won't you take something?" Mr. Lincoln said, "No, I think not." Mr. Douglas said, "What, are you a member of the Temperance Society?" "No," said Mr. Lincoln, "I am not a member of any temperance society, but I am temperate, *in this*, that I don't drink anything."

At the same meeting another incident occurred which I wish to relate.

One of the visitors who came in to call on Senator Douglas was the Hon. Jesse W. Fell. He was an old friend and had known Douglas when he first came to the state. I remember very well their cordial meeting and recall clearly a part of their conversation. After talking a while of old times and mutual friends, Mr. Fell said, "Judge Douglas, many of Mr. Lincoln's friends would be greatly pleased to hear a joint discussion between you and him on these new and important questions now interesting the people, and I would be glad if such a discussion could be arranged."

Mr. Douglas seemed annoyed, and after hesitating a moment, said, "No! I won't do it! I come to Chicago, I am met by an old line Abolitionist; I come down to the center of the state and I am met by an old line Whig; I go to the south end of the state and I am met by a pro-Slavery Democrat; I can't hold the Abolitionist responsible for what the Whig says! I can't hold the Whig responsible for what the Abolitionist says, and I can't hold either responsible for what the Democrat says; it looks like dogging a man over the state."



"This is my meeting, the people have come to hear me and I want to talk to them." Mr. Fell said, "Well, Judge, you may be right, perhaps some other time it can be arranged."

I have told this incident for a purpose.

Mr. Fell never gave up this idea of a joint discussion. He was the first man to suggest it. From 1854 to 1858 he continued to urge it and to Mr. Jesse W. Fell, more than to any other man, is due the credit of suggesting and bringing about those great debates, the influence of which upon Mr. Lincoln's fortunes, the events of history and the fate of the nation, no man is wise enough to know.

Mr. Fell was the intimate, devoted and *wise* friend of Mr. Lincoln. I speak with some knowledge and with perfect sincerity when I say that with the possible exception of the Hon. David Davis, Mr. Fell did more than any other man, now living or dead, to secure the nomination of Mr. Lincoln to the Presidency.

Mr. Fell was one of our citizens. He was Bloomington's first lawyer. His life was a benefaction to this community. I am pleased to take advantage of this opportunity to connect his name with the name of the man he helped and to pay a modest tribute to one of the best men who ever lived.

In the late fall of 1860, I met Mr. Lincoln on the sidewalk in front of the old Court House. He had come from Springfield to arrange some old suits in view of his departure for Washington. He shook hands with me and said, "Well, you have gotten to be a lawyer; let me give you some advice. Don't meddle with politics, stick to the law."

I replied, "Mr. President, I fear your example may prove more alluring than your advice."

"No! No!" said he. "That was an accident." He passed into the Court House and that was the last time I ever saw him.

Personal reminiscence must be confined to a time prior to 1860. The four years following, belong to the history of the world.

#### THE ROMANCERS.

This is the time of the making of many books, the writing of many histories, biographies, short and long sketches in magazines and newspapers, critiques and tributes, memoirs, stories, anecdotes and lies about Mr. Lincoln.

There are books by "His Private Secretary," by the "Man Who Knew Lincoln," by lots of men and women "Who Didn't Know Him," by a "Member of the New York Bar," by members of other bars, by editors, school masters and preachers, by "Butchers Bakers and Candle-stick Makers," by "Old Neighbors," and by "Old Clients." About "Lincoln, as a Boy," "Lincoln the Man," "Lincoln, the Soldier," "Lincoln, the Lawyer," "Lincoln, the Story Teller," "Lincoln, the Lover," "Lincoln the Dreamer," "Lincoln, the Farmer," the "Wood Chopper" and the "Foot Racer."

There will be delivered this 12th day of February, 1909, more than fifty thousand speeches, addresses, orations and memorials which will help to swell this Lincolnian literary melange to the proportions of an Alexandrian library.

It would be strange indeed, in view of the many authors, the variety of publications and the character of the subjects, if there should not be found an immense amount of misrepresentation, false history, in-

accurate estimates, false narratives, tiresome repetitions, sentimental pathos, and silly white lies.

Old Dr. Johnson, when Boswell told him he "intended to write his life," said, "If I believed you, *I would take yours.*"

If Mr. Lincoln had been told what some of his *friends* intended to do, he would have said with David, "Oh! that mine *enemy* would write a book."

The trouble is that men who never saw Mr. Lincoln and who have no adequate conception of his life and character, have revived old stories, incidents, traditions, second-hand anecdotes and have rushed into print to make history.

Others even manufacture goody-goody lies to increase his reputation. Others write of him as a slouch, a buffoon, an uneducated gawk, to increase the wonder of his career. Others tell of artful practices and doubtful tricks, to demonstrate his shrewdness. Others recite sentimental and impossible rescues and charities, which put old Santa Claus to shame.

One old citizen tells of a wonderful conversation he had with Mr. Lincoln at the time of the Douglas and Lincoln debate at Bloomington, a debate which never took place.

A reverend gentleman tells how an actor friend of his was invited by Mr. Lincoln to "stay all night" with him at the White House during the war; how they talked until midnight and how Mr. Lincoln told him all the secrets of the war; how when they had retired, the actor heard some one apparently in great distress; how he got up and wandered about the halls until he found Mr. Lincoln's private bedroom, and looking through the keyhole, saw Mr. Lincoln on his knees, agonizing in prayer, etc. I suppose this preacher be-

lieved that proving Mr. Lincoln a saint, justified him in proving his friend a liar and a sneak.

Another one of these stories is how Mr. Lincoln manufactured an almanac and introduced it in evidence to confound a witness who had sworn that a certain night was moonlight when the manufactured almanac showed it was the dark of the moon, thus saving his client's life.

This story is repeated in Mr. Churchill's book, "The Crisis," and even in school books. No one who knew Mr. Lincoln could think of him perpetrating a forgery and practicing upon the court a trick of which only a pettifogger could conceive.

Another "friend" of Mr. Lincoln tells how he accompanied him to Washington from Springfield in 1861 and how the President "kept the entire company in constant roars of laughter" by telling questionable stories and jokes. It is probable this fellow was not on the train at all.

I think there have been more lies told about Mr. Lincoln than about Santa Claus. A curious thing is that they are not usually malicious, but mostly told by mistaken friends and for good purposes. They are "white lies," but I fear unlike that of Uncle Toby and the loving lie of Desdemona, they will never be blotted out by the tears of the Recording Angel.

You and I can do little to stem this literary flood, but we can thank God that the subject of it is safe in the Pantheon, beyond the domain of human praise, blame or stupidity.

#### NO BUFFOON.

Mr. Lincoln dressed as well as the average lawyer of his day. I do not think he gave much time to

the tying of his necktie and he could not have been said, by his best friend, to have been much of a dude, but he was always respectably clothed.

Mr. Lincoln was not a "story teller" in the sense of "swapping stories," or telling a story for the story itself. He was possessed of great humor and a wonderfully acute sense of the ridiculous, that marvelous "gift of the gods" which we sometimes call the "sixth sense." Unexpected situations, curious expressions, odd sayings, unusual appearances and humorous actions made an impression on him. He remembered and often used them as illustrations. He seldom, if ever, told a story except to illustrate his speech or argument. And in this kind of illustration, no man was more apt. A few minutes after the voting in the Legislature in 1858, when Mr. Douglas was elected Senator, Mr. Lincoln was asked by a friend, "How do you feel?" Said he, "I feel like the boy who stumped his toe; I am too big to cry, and too badly hurt to laugh!"

Hon. Ezra M. Prince told the following story:

After the adjournment of the Major Hall convention, the Republican editors of Illinois met in convention at Bloomington. Mr. Lincoln attended and was invited to address the meeting. He said he "was afraid he was out of his place. He was not an editor and had no business there. In fact he was an interloper."

He said, "I feel like I once did when I met a woman riding horseback in the woods. As I stopped to let her pass, she also stopped and looking at me intently, said, "I *do* believe you are the ugliest man I ever saw!" Said I, 'Madam! you are probably right.

but I can't help it! 'No!' said she, 'you can't help it! *But you might stay at home!*' "

Hon. John B. Henderson (who was a Senator from Missouri during the war), told the following story as showing how Mr. Lincoln could illustrate a situation by an incident.

He said he was at the White House talking with Mr. Lincoln. It was at a time when great pressure was being brought upon the President by certain radical members to induce him to issue an Emancipation Proclamation. Mr. Lincoln had been telling Mr. Henderson of his troubles in that regard. He did not think the time was ripe and was very much annoyed at the persistence of three men whom he named—Senators Wade, Sumner and Stevens. All at once Mr. Lincoln said, "Henderson!" "did you ever attend an old field school?" "Yes!" said the senator. "Well," said Mr. Lincoln, "I did, and a funny thing occurred one day."

"You know we had no reading books and we read out of the Bible. The class would stand up in a row, the teacher in front of them and read verses turn about.

"This day we were reading about the Hebrew children. As none of us were very good readers, we were in the habit of counting ahead and each one practicing on his particular verse. Standing next to me was a red-headed, freckled-faced boy, who was the poorest reader in the class. It so fell out that the names of the Hebrew children appeared in his verse. He managed to worry through *Meschac*, fell down at *Shadrach*, and went all to pieces at *Abednego*. The reading went on and in due course of time came round again, but when the turn came near enough for the boy to see his verse, he pointed to it in great consterna-

tion, and whispered to me, 'Look! There's them three d—d fellows again.'

"And there," said Mr. Lincoln (pointing out of the window), come those three same fellows." And sure enough, there were Wade, Stevens and Sumner coming up the walk.

Mr. Henderson added, "As I arose to take my departure, and the other gentlemen entered, there was a smile on Mr. Lincoln's face, as if his thoughts had flown away, over all the years, from war and trouble, to the old field school in the forests of Indiana."

No one called Mr. Lincoln "Abe." Judge Davis, General Gridley, Mr. Isaac Funk, Mr. Fell, Leonard Swett, Gen. William Ward Orme, Lawrence Weldon, William McCullough, Judge Treat, John T. Stuart, Owen T. Reeves, Reuben M. Benjamin and Wm. H. Hanna, all of them Mr. Lincoln's early friends and associates, and all of them elegant and dignified gentlemen, invariably addressed him as "*Mr. Lincoln.*" It was always Mr. Clay, Mr. Webster, Mr. Lincoln.

#### NOT A NEW MAN.

It is a mistake to think of Mr. Lincoln as an ordinary man even from the first.

In 1844 he was a lawyer of state reputation, nine years before he was in the legislature where he met such men as Douglas, McClernard, Browning, Ebeazar Peck, Robert Blackwell, Joseph Gillespie and Judge Purple; these were great men and he was never dwarfed in their presence. I have spoken of the men with whom he associated and acted in our city. He was always easily the leader, he was the talker. Everybody deferred to Mr. Lincoln; he had the center of the stage by common consent.

He knew more of the matter in hand. He thought more, he was a better talker and was a natural leader.

When elected to the Presidency, he did not select for his advisor his private secretary and other unknown men, but William H. Seward, Edward Bates, Salmon P. Chase, all of whom had been prominent candidates in the Republican party for the Presidential nomination, and to these were added other distinguished and leading men who constituted his cabinet. He did not fear to be overshadowed, and he was not.

From the first he was the equal of any of them and in Washington as in Bloomington he was *inter pares primus*.

#### EDUCATION.

It is a mistake to think of Mr. Lincoln as an uneducated man. The "Kindergarten" and "Primary" courses were taken in a Kentucky cabin with his mother as "principal." Possibly he never learned at this school to make mats, but he did learn "Manners and Morals."

#### THE ACADEMY.

At the age of nine, he entered the Academy to prepare for College. This "School of Learning" was located in a "clearing" on his father's farm, a "little house in the woods," in the State of Indiana. Here his attention was first directed to "physical culture." This study he was not permitted to neglect.

"The Gymnasium" was well furnished with "apparatus," axes, wedges, mauls, log chains, cross bars swinging saplings etc.



Then came "Nature Studies." Out on the "Campus" he found spring beauties and sweet williams, May apples and purple grapes, and out beyond, the prairie grasses and the wild rose. From these, from tree, shrub and plant, from form, color and perfume, came that sense of beauty embodied in those exquisite prose poems which we so much love to read. This branch of study included zoology.

He learned the names of animals, their nature, habits, instincts, history and language. He knew when the birds mated and how they builded their homes. And he learned well the only lesson worth learning from this science—to be kind and gentle to all animal nature.

He had lessons in "Political Economy," the value of money; supply and demand; the virtue of economy; the proper sources of wealth, the lessons of necessity and the value of labor.

He closed his academic course at the age of 21, with the honors of his class, and entered the university.

He studied mathematics, became a surveyor and a naval architect. He became a great linguist and his success was all the greater in that he confined himself to one language.

He devoted himself so diligently to the study of history that he learned how to make history.

He was a past master in the department of *belles-lettres*. He read the great epics of Homer, Virgil, Tasso and Milton. He read and re-read Shakespeare and Burns. He studied the best English classics and that wonderful volume of Hebrew literature, the Bible.

The result of these "Language Studies" is the purest English ever written.

Rhetoric and Logic came easy. He was a philosopher by nature. "Civil Government" he learned under Jefferson, Madison and Hamilton.

He took a post graduate course in the *law* under Professors Blackstone and Chitty and from this department, as from the University and the Academy, he carried away all honors and was the Valedictorian of his class.

And yet there are pseudo historians and pretentious literati who speak of Mr. Lincoln as illiterate and uneducated.

I say, "He was the best educated man of his day, if the best education means the best equipment for the duties of life."

#### NON FILIUS DEI.

There are a great many good Americans who are not exactly satisfied with Mr. Lincoln's ancestry. They can stand his poverty alright, that could be remedied, but a great man ought to have not only a father and a mother but several grandfathers. In that marvelous transition from poverty to affluence, from a cabin to the White House, from obscurity to fame, the aching void is the want of ancestry.

Mr. Lincoln, in his Autobiography, gives the following account of his family :

"I was born February 12, 1809, in Hardin County, Kentucky. My parents were both born in Virginia of undistinguished families, second families, perhaps, I should say. My mother, who died in my tenth year, was of a family of the name of Hanks, some of whom now reside in Adams, and others in Macon County, Illinois. My paternal grandfather, Abraham Lincoln, emigrated from Rockington County, Virginia, to Ken-

tucky, about 1781 or 1782, where, a year or two later, he was killed by Indians, not in battle, but by stealth, when he was laboring to open a farm in the forest. His ancestors, who were Quakers, went to Virginia from Berk's County, Pennsylvania. An effort to identify them with the New England family of the same name ended in nothing more definite than a similarity of Christian names in both families."

But this modest account, splendid in its simplicity, is by no means satisfying to the inquirers after a nobler lineage.

Since we have known anything of the history of the human race there has been traceable a disposition to make of the hero a demigod. Achilles, the son of Pelias, was also the son of Thetis. Alexander, after he had conquered a world, was the son of Hercules. Julius Caesar became a descendant of Aeneas, who had a goddess for his mother. Moses no longer has a Hebrew mother, but is the son of the Pharos. This is only the symbolism of that disposition of human nature to account for great men and great achievements by greatness of birth.

But there is hope! I bring you good news! Mr. Lincoln's ancestors have been discovered!

Two "distinguished genealogists," one an American and one an Englishman, have for years been collaborating to trace the ancestry of the great President to his English forbears, through colleges of heraldry and the records of Courts of Chancery for many generations. They have made many wonderful discoveries.

The result of these genealogical labors is a book (I quote from the publishers) "which is a fine example of sound genealogical research, and is now offered at

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this centenary of Lincoln's birth" to a waiting public; "with elaborate tables, copious appendices, richly illustrated and including "*A Defense of Thomas Lincoln*" in one octavo volume at \$10.00 net."

Mr. Lincoln has written it all in twelve lines.

These "distinguished genealogists require an octavo volume."

Which do you like the better?

Seriously, is it not strange and is it not deplorable that an intelligent American could believe that Saxon or Norman lineage could add anything to the fame of a man whose presence already fills the world?

If his birth was lowly, his deeds are royal in that land which men call fame.

We are all hero worshippers, and often when our heroes are above the clouds, we build unto ourselves graven images. Sometimes, their crowns are only of tinsel, and are so easily tarnished. Sometimes their halos are only of paper and are so fragile.

Men will differ as to the chief foundation of Mr. Lincoln's fame but there will be no difference as to its being real and lasting. Some day the true historian will appear. Some day out of all this rubbish and jungle of inconsistencies the true history will be written.

Some day, when the rugged proportions of this great historic figure by time and distance have been rounded into form, the real man will be known.

Then, I think, we will come to realize that in the history of a great man, chance is not so much a factor as Providence.

Then we will understand better and appreciate more how priceless was our heritage, and although given to the ages, "it was not taken from us."

## "A CITIZEN OF NO MEAN CITY"

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On the Occasion of the Celebration of the Fiftieth Anniversary of  
the Organization of Bloomington, Illinois, into a City.

Delivered Thursday, May 10, 1900

Saint Paul, in Jerusalem, was accused by certain of the Jews. They said, "he was a pestilent fellow, a stirrer-up of sedition, a ring-leader of the sect of the Nazarenes, a follower of one Jesus, who is now dead, but he says he is alive." The Chief Captain seemed to recognize him as an Egyptian murderer; but Paul said, "I am a Jew, of Tarsus, in Cilicia, "A CITIZEN OF NO MEAN CITY."

This claim of citizenship did not seem to be sufficient, for they bound him, and ordered him to be scourged. But Paul said to a Centurion that stood by, "Is it lawful for you to scourge a man that is a *Roman*, and uncondemned "

When the Centurion heard that, he went unto the Chief Captain, and said, "Take heed what thou doest; for this man is a *Roman!*"

Then the following conversation took place:

"Tell me! art thou a Roman?" Paul said, "Yes." And the Chief Captain answered, "With a great sum obtained I this freedom;" but Paul said, "I was free born!"

The Chief Captain decided he had no jurisdiction, and that a Roman citizen could not be tried under the Jewish law. So he sent Paul to Cæsarea, to be tried by a Roman Governor.

And between Paul and this Roman Governor occurred another remarkable conversation.

Paul said, "Neither against the law, neither against the temple, nor yet against Cæsar have I offended anything at all."

Festus said, "Wilt thou then go up to Jerusalem, there to be judged of these things?"

Then said Paul, "I stand at Cæsar's judgment seat, where I ought to be judged. I appeal unto Cæsar."

And when the Jews again demanded the death of Paul, this Governor said:

"It is not the manner of the Romans to deliver any man to die, before that he which is accused have the accusers face to face, and have license to answer for himself concerning the crime laid against him."

Rome had been a republic for 500 years, and her liberties had not yet been lost in the glory of her conquests; but from the Clyde to the Euphrates, and in all her provinces on either side of the Mediterranean, as well in Tarsus as at Rome, the ægis of her laws covered and protected her citizens.

This was a marvelous inheritance! Paul had not "bought it with a great sum," but it came to him as a birthright; and we do not wonder that with pride and confidence he declared he "WAS A CITIZEN OF NO MEAN CITY."

Many things have happened in the nineteen centuries since this exultant declaration of citizenship. Kingdoms and Empires have risen and fallen; Republics have been born, baptized in blood, and gone down to death in their greed for gold and glory. Revolutions have swept over the earth and chaos reigned for a thousand years. And yet, through all this long night, through all these plots and counterplots, the spirit of human liberty has survived, and somehow bridging over the waste places of history, enables us to

say tonight, with the same pride and the same confidence as did Paul in Cæsarea, "I AM A CITIZEN OF NO MEAN CITY."

This citizenship is our inheritance! not "bought with a great sum," but a free gift from our fathers who say to us in spirit, tonight, "Take it! and be thankful."

The city of Bloomington is fifty years old today. But there is a *decade* prior to our entrance into city life, with which I am quite familiar, and about which I prefer to speak. To me, Bloomington from 1840 to 1850 is much more interesting than Bloomington from 1850 to 1900.

To know a man or a woman well, you must know something of his, or her youth; and to know a city, you must know who were its builders, what were its youthful surroundings, and under what conditions did it find its municipal life?

When we are young our minds are easily moved to joy or sadness by the chords, or discords of our own dreaming, and imagination plays a large part in filling waste places with things of beauty, and often casts a glamour over events which, possibly, are quite realistic.

Therefore, if some things I may say should seem to be somewhat fanciful, you will remember this is a reminiscence, rather than a history.

Bloomington in 1840 was a picture of "Sweet Auburn." Try to think of it, as it nestled in the sunshine on the border of the grove. Great oaks standing like mailed sentinels for its protection. No landscape garden; no flower bordered park; no well shaven lawn, or artificial lake, was half so wonderful as that Blooming Grove!

Oaks, elms, hackberry and linden, ash, hickory, maple and walnut; open glassy glades and leafy dells; natural bowers, trellised with wild grape vines, carpeted with violets and sweetwilliams, perfumed with flowers and resonant with the music of singing birds.

This wonderful grove, full of animal life, fed at nature's bountiful table; a thousand flowers, ranging from the spring violet to the golden-rod; the May apple, the paw-paw, and the purple grape; from budding spring to fading autumn, for the delight of man, arrayed herself in her changing garments of beauty.

And the prairie to the north of it more wonderful than the grove, waving and undulating like a sea in motion, was an endless landscape of grasses and flowers, where the wild rose blossomed and the red deer wandered.

“Wonderful land, where the loam and the sand  
Burst into bloom at the touch of a hand.”

And so, between the *grove* and the *prairie*, with their “orchard, and meadow, and deep tangled wild-wood,” lay this pretty village like a sleeping child in the sunshine and the shade.

And this is what the dreamer saw :

“Seas of grain and of answer to the prayer of man-  
kind

And the rose in blossom making a bride of the wind,  
And the prairie flowers shining like a scripture in  
bloom,

And the bees abroad with their blunder and boom,  
Never blunder amiss, for there is something to kiss,  
Where the flowers out of doors smile in all weather,  
And bud, blossom and fruit graced the garden to-  
gether.”



I hold that the men who build a city, who lay its foundation and nourish it into life, impress their characteristics upon it for generations to come. And it is to the founders and pioneer citizens of Bloomington, who laid its foundations in soberness and righteousness, in intelligence, integrity and honor, that we owe the high reputation of our city, and the pride with which we say today, "WE ARE CITIZENS OF NO MEAN CITY."

And when I mention the names of these gentlemen, I am calling a roll of honor.

#### THE VILLAGE SCHOOL!

for four years, or more, was taught by Dr. Wm. C. Hobbs. There were other school teachers before and after. Mr. Bragg, Mr. S. S. Luce, Mr. George W. Mineer, Mr. Peter Folsom, but the village school teacher proper, *par excellence*, was Dr. Hobbs. A singular and remarkable man! He came from Louisville, Ky., I think in 1838. He was the dentist, school teacher, and the social *arbiter elegantarium* of the village. He was a large, handsome and elegant gentleman. While most other citizens dressed in blue jeans, tow linen and linsey walsey, he wore broadcloth, silk hats, immaculate linen and silk lined cloaks. He was afterwards a merchant, and for many years the county clerk. He died leaving no enemies, a good many debts, and twenty-seven satin vests.

I recall the following names of persons now living in Bloomington who attended this school: Adam and Peter Guthrie, William Newton and James Hodge, Jonathan H. Cheney, Thomas J. Bunn, Richard Lander, John T. Walton, James and William Depew, Ed-

ward Hardy, Dr. Wm. M. T. Miller, James S. Ewing, Lewis B. Thomas.

Miss Virginia Hayden, now Mrs. Lynus Graves.

Miss Louisa Depew, now Mrs. Dr. Crothers.

Miss Harriet Hardy, now Mrs. I. W. Wilmuth.

Miss Margaret Hawks, now Mrs. Richard Lander.

Miss Nannie McCulloch, now Mrs. D. S. Dyson.

Miss Lydia McKisson, now Mrs. Edward Hardy.

Miss Mary Hawks, now Mrs. O. T. Reeves.

#### THE DOCTORS.

When I first remember Bloomington, the block north of the court house was owned and occupied as a residence by Dr. John F. Henry. He came from Hopkinsville, Ky.; was a descendant of Patrick Henry; a brother of the Hon. Gustavus Henry, one of the great orators of Tennessee.

Dr. Henry was a most elegant and accomplished gentleman, as well as an able physician. He improved the farm east of the city now owned by Mr. George P. Davis, and did much to give tone, character and culture to the new community.

The block east of the court house was owned and occupied by another physician, Dr. John Anderson. He was the father of Mrs. Jonathan H. Cheney. He was a gentleman of means for that day; a learned physician, of great dignity of character and of superior intelligence. He died in early manhood, but was long remembered in the village for his kindness and real worth.

Dr. Colbourn was another of our early doctors who was very much loved and respected. He removed to Peoria, where he died many years after. His son is

now one of the leading physicians and surgeons of that city. There were others who came a little later; the ones I most particularly remember were Dr. A. H. Luce, Dr. Ezekiel Thomas, Dr. E. K. Crothers, Dr. Geo. W. Stipp, Dr. Chas. R. Parke, and Dr. Thos. F. Worrell.

#### THE LAWYERS.

were David Davis, General Gridley, Wells Coulton, and Kersey H. Fell. Afterwards, but while Bloomington was yet a village, and almost at the same time, came a number of young lawyers who well supplemented the fathers of this bar, and continued it, what it always had been and what it has remained to this day, one of the ablest in the state: Leonard Swett, Ward W. Orme, John H. Wickizer, W. H. Hanna and John M. Scott.

There were other distinguished lawyers who, while they were not residents of Bloomington, yet practiced at the McLean county bar, and we may claim something of their fame as a possession.

#### AN INCIDENT.

In the early history of this county, two boys, one day, went into the old court house to hear a lawsuit tried. There were assembled eight young lawyers—not all of them engaged in the trial, but giving strict attention to the proceeding. It was not a suit of great importance. Some one had permitted his cattle to stray into his neighbor's cornfield; the neighbor set his dog on the cattle, and a suit in trespass followed. It was really a suit between the dog and the steers, and involved their respective characters for quietness

and good deportment in the neighborhood. But engaged, or interested, in that suit, were eight young lawyers. I doubt if any one of them were over 26 or 27 years old; certainly not over 30, and some much younger. The court was presided over by Samuel H. Treat, who afterwards became a United States district judge, and one of the most distinguished lawyers and jurists in the state. One of the lawyers was General Asahel Gridley, our townsman, and a well known citizen of the state.

David Davis, first a noted lawyer, then a circuit judge; then a judge of the Supreme court of the United States; then a United States senator and acting vice-president of the nation; a citizen of state and national fame, whom the people of Bloomington loved and delighted to honor.

Another was John T. Stewart, a brilliant lawyer, several times a member of congress and one of the most lovable of men.

Another one was David Campbell, then the prosecuting attorney, and afterwards a prominent lawyer and citizen of Springfield.

Another was Edward D. Baker, who was afterwards a United States senator from Oregon; a famous orator, who immortalized himself by his marvelous oration over David Broderick.

Another was James McDougal, a brilliant Irishman, afterwards a United States senator from the state of California.

And Abraham Lincoln! who has passed beyond the domain of human praise into the pantheon of unusual history.

I might add that one of those boys afterwards be-

came the vice-president of the United States; and the other is your speaker.

Speaking to any audience in America, and I might say in the world, I doubt if such an incident could be truthfully related of any other gathering.

#### POLITICS.

We had political parties in those days, and the country was lost and saved as often then as now.

The leading Whigs were David Davis, Wm. McCullough, Allen Withers, Jesse W. Fell, Isaac Funk, General Gridley, Wm. Thomas, Wm. H. Temple, Wm. Hodge, James Miller.

The leading Democrats were Merrit L. Covel, Abram Brokaw, Henry I. Miller, Joseph C. Duncan, John W. Ewing, H. P. Merriman, Albert Dodd, John Moore, Geo. D. McIlhiney.

There was a *third* party—not a Greenback, Populist or Prohibition party. It was called the *Abolition party!* It was a small and very much abused party. In Bloomington it numbered six members. Thomas Hardy, Wm. Wallis, J. N. Ward, Deacon Tompkins, Geo. Dietrich, Silas Hays.

Abolitionism was then a term of reproach. And those who openly professed the faith were bitterly denounced as fanatics, "pestilent fellows," "stirrers-up of sedition," and enemies of their country. They denied this charge. They said, "We love our country, and therefore dare we not keep silence concerning her sin."

Whigs and Democrats proclaimed the *vital*, "*paramount*" and *all important* questions were about Internal Improvements, U. S. Bank, the Tariff, the Mexican War. These six men said, "nothing is important but

human liberty." "A free people cannot have slaves." "It is on our consciences, we must talk."

The Whigs and Democrats said, "You are agitators; you must not agitate, you will ruin the country."

They said, "Not till the country divorces herself from her sin can her bells ring peace."

And now, in the white light of history, we know that theirs was, "The voice crying in the wilderness, make straight the paths of the Lord!"

Now we know that those six men, and they only, were right, and all the others were wrong. Now we know that in politics questions of arithmetic, questions of finance, questions of economics are never of supreme importance.

Now we know that in the presence of a question of human liberty, a question of preserving the republic on the true principle of the Declaration of Independence, all other questions must veil their faces, and, for the time being, sink into insignificance.

#### THE BUSINESS INTERESTS.

of the village were well represented. The market was largely local, but almost every demand was supplied by some local industry.

Mr. Matthew Hawks operated an oil mill.

Mr. John N. Larimore manufactured hats.

Mr. Daniel Dryer had a pottery.

Wm. Flagg and John W. Ewing, as Flagg & Ewing, operated a saw mill, machine shop and foundry, and manufactured furniture.

David Haggard made half bushels.

Lewis Bunn and Oliver Ellsworth were the blacksmiths.

Gillespie and Adolph were tailors.

John Dawson was the shoemaker.

Goodman and Lyman Ferre were the wagon makers.

James Walton and Joshua Harlan were saddlers and harness makers.

John Myers and S. B. Brown ran the flour mill.

Jacob Myers had a woolen mill.

Ebenezer Peck and William Brewer each owned tan yards.

George Deitrich was the tinner.

Noah Stine, Benjamin Harrison, and John Rockhold were coopers.

Allen Withers, Wm. Temple, Wm. H. Allen, James H. Robinson, and A. J. Merriman were our merchants.

Joel Depew was a cabinet maker.

J. N. Ward manufactured chairs.

Crevan Bosley was the house painter, and

John L. Wolcott was the undertaker.

You see how diversified were these industries. How everything that was wanted was manufactured at home. Every one did well, made a good living, and was well content that his neighbor should prosper. There was then no selfish spirit of competition which sought to drive all others out of business and gather all the golden sheaves into one barn.

Remember, that in this village were only 500 or 600 people. Ministers, doctors, lawyers, manufacturers, handicraftsmen, and day laborers worked together for the good of the community and of each other. All whose names I have mentioned in any connection were high-minded, honorable men. Self-respecting and respected, many of them were remarkable men; and all of them would have been marked men in any com-

munity. They respected each other's rights while they maintained their own.

Between these men there were strong attachments and warm friendships, which lasted through life, and in many cases extended to their descendants. There were no rich men, and few poor ones.

I have often expressed a doubt if any other village of equal size ever contained as many men of such peculiar and marked characteristics what might be called "characters," or "types."

There are many of my hearers who will understand exactly what I mean when I call to their recollection: Zera Patterson, Capt. Furgason, John Rockhold, James Allen, General Gridley, John Dietrich, William Flagg, Wm. C. Hobbs, Isaac Baker, Dr. Lindley, Bailey Coffee, Greenberry Larrison, Dr. Espy, Wm. McCullough, Jesse W. Fell, Willett Gray, Wm. Temple. Strongly marked characters, and utterly unlike any one but themselves.

There were no railroads in those days, no telegraphs nor telephones, no sewing machines, no gas lights, no pavements, few sidewalks, no daily paper, no city council, no *mayor!* and yet people were happy!

I love to think of this little community, with its simple and healthy habits, its splendid men and women, its bright lads and pretty maidens as something ideal. There was not the elegance, fashion and culture of today; but there was honesty, kindness and good will.

There were not the fine residences which now adorn our beautiful city. Their homes were mostly cottages and cabins; but the honeysuckle and the morning-glory climbed over their doorways and the songs of birds wakened them from slumber.

These were some of the men and women who laid



the foundation and built our city. The builders are dead, but their city remains, and this celebration today is in honor of their memory.

Fifty years ago the village became a city. *In that fifty years what* marvelous changes have taken place! The railroads came, the sidewalks and pavements were built; our churches have increased in size and number, and our colleges and schools, our court house and fine public buildings, our library, our water works, our fire department, our beautiful shaded streets, our literary and musical societies have all combined to more than fulfill the promise of our youth. In all this material prosperity and improvement we rejoice.

But there is something more to a city than its streets and houses; something, if not so tangible, yet quite as real. It is what the French call

L'ESPRIT DE LA VILLE.

*Paris* is not simply a great fashionable city which is to have an exposition this year. It is the city of Charlemagne, of Louis the XIV, of Rosseau and Robespierre, of Marie Antoinette, of the Revolution, the Bastille, and the Commune. It is where kings and emperors have reigned, loved and died; and which a thousand tragedies have embalmed in story and in song.

When an American visits London, the first places he inquires after and wants most to see are London Bridge, Drury Lane, and Primrose Hill, immortalized in the wonderful poems of Mother Goose. Then he wants to find the "Old Curiosity Shop," and a hundred other places made so real by the genius of Charles Dickens.

I once stopped over a day in a little town in Italy

to visit the grave of a sixteen-year-old girl who died 400 years ago (or rather who never lived at all), simply because the greatest poet who ever lived had told how passionately she loved, and how sadly she died. The genius of the poet hallowed the spot and changed the mystic ideal into things rare and real.

A hundred thousand tourists annually visit a little town in Germany (not larger than Le Roy), because a poet wrote the little love song of "Bingen on the Rhine."

The houses, streets and alleys are the "outward and visible signs of the inward and spiritual" life and character of a city which is, after all, the most real. Whenever you feel the touch of humanity, wherever you connect the scenes with the deeds of men, who have lived, and loved, and suffered, the chain is beyond the breaking. Hence these celebrations affect our hearts. They bring to us the memory of those whose lives and works have made life easier for us. They recall whatever there may be of noble action, self-sacrifice or act of heroism. This celebration will make more real to us these intangible certitudes. If we love our city, that love will be anchored in its memories, tragedies, and traditions.

The moral tone of a city, its intelligence, its public spirit, its culture, its patriotism, its traditions, its citizenship; what it has done, and what it has produced, determine its certitudes. Considered from this point of view, I think, we may also say, "WE ARE CITIZENS OF NO MEAN CITY."

Bloomington is a patriotic city! She sent soldiers and officers to the Black Hawk War. She sent a company to the Mexican War. She sent a regiment to the war of the Rebellion. She sent a company to the

war with Spain. We have Harvey, Howell, Hogg, Orme and McCullough who gave up their lives for their country. They, with many others, are our heroes, whom we delight to honor.

Bloomington has also furnished her full quota to the civil service of her country. Two vice-presidents, one United States senator, a judge of the United States Supreme court; a judge of the court of claims; six members of congress; two governors, and one chief justice of the state of Illinois.

And without any disposition to exaggerate, and in all modesty, I think I may say, that we are prepared to duplicate this record at any time the country may be in need of jurists and statesmen.

Bloomington is a moral city! It is full of beautiful houses; its yards, gardens and lawns are clean and well kept. It is full of churches and schools, and its streets are lined, adorned and beautified with shade trees (except where the spaces are needed for telegraph poles.)

We challenge comparison with any city, as to the moral tone, intelligence, public spirit, culture and social qualities of our citizens. And, subjectively considered, we may well say, "WE ARE CITIZENS OF NO MEAN CITY."

Thus far I have spoken of the past. But what may we reasonably expect of

#### THE FUTURE?

I think Bloomington will never be a very large city; and I am glad of that. It will never be a boom city; and I am glad of that. It will never be a manufacturing city, and I am glad of that. It will never

be the capital of the state; and I am glad of that. It will never be a city like Chicago, and I am glad of that.

Bloomington will continue its steady, conservative, healthy growth towards the fulfillment of its manifest destiny; which is, to become the ideal residence city of the west.

It will not be long until all of our streets will be paved; thus saving the annual expense of taking care of dirt roads, and the enormous additional expense of cleaning the pavements already built. This will be done just as soon as it can be realized that it will cost no more to do it all in one year than to spread it over twenty.

Continuing in the spirit of prophecy, I will say, the time is coming when, following the suggestion of one of our most public spirited citizens, our school house yards and our unique little strip lawns will be turned over to our park commissioners, who will see that they are well covered with grass, their shade trees trimmed and guarded (and wherever the telegraph, electric light, and telephone companies permit), new trees planted wherever they are needed.

We need, and will have established here, a first-class female college, a fit mate for our universities, where our young girls can secure a finished education, while at the same time enjoying the benefits of home culture and protection. When we have the schools, our city will be sought as a place of residence by people of means and refinement, for purposes of education and the benefits to be derived therefrom. If we have any money to give away, let us give it for this purpose, and not to buggy factories and cereal mills, *et cetera!*

In this ideal city of the future, we will have clean

streets. There has been wonderful improvement in the last year. Just as soon as our city council learns that there is no money the citizen pays so willingly as that used in cleaning the streets, this service will be improved. There is another thing! Some day, it will dawn upon the street commissioner, that it costs no more to clean off the crossings within an hour after a rain than it does four days after. And then, won't we all be happy?

We may none of us live to see the blessed time, but some time “in the sweet bye and bye” the long rows of great ugly, black, dirty poles, which mar, disfigure, and disgrace many of our most beautiful avenues, will be removed, and the rusty wires which adorn them will be buried out of sight. Do not think I am imposing upon your credulity, or desire to create false hopes. In this wonderful century of material progress more wonderful things have happened, and even if our eyes may not see this glory, we may leave it as a hope and aspiration to our posterity.

There is a beautiful little city to the north of us, built up around our state university. I am in favor of annexing Normal. It is not at all certain that the inhabitants of that city are capable of self-government. In all the years they have been trying the experiment, they haven't established a single saloon, and but one law office. Annexation would be of great financial advantage to us. It would open up a great missionary field, and a new area of enterprise for our surplus lawyers, real estate men, insurance agents and book peddlers. I do not favor, however, forcible annexation (if it can be avoided.) I believe the “constitution follows the flag,” and favor a policy that would give these “insurgents” the benefit of home government,

under our direction, and the rights of citizenship; provided they accept our notions of citizenship.

If Normal will allow us to retain a few saloons, and the city railway company will agree to run enough cars after the theater, the matter can be easily arranged.

Then by a judicious system of tariff duties, or by special assessment, we might compel these new citizens to build hard roads and pavements connecting us with our "new possessions."

By the establishment of a coaling station at the university, we could easily extend our trade to the Soldiers' Home, Hudson, Kerrick, and Kappa. The possibilities are enormous.

More seriously speaking, there is a growing conviction that a union of these cities, under just and proper conditions, will be mutually beneficial in very many ways. There are visions of hard roads, paved streets, shaded drives, and intervening parks; of a larger and more beautiful city, cheaper taxation, more influence for good, and brighter prospects for the future.

Our little neighbor is somewhat coy, and must be wooed as a bride; the union must be a marriage, and added to its material advantages, must be added a dowry of love and affection.

One other hope allow me to express. In the old city cemetery sleep many of our city builders, with the ones they loved. This consecrated property is owned by the city. Is not this an appropriate occasion to suggest the caring for and beautifying of this long neglected city of our dead? It would be but the grateful performance of a sacred duty. I am sure I express the unanimous sentiment of every citizen of Bloom-

ington, when I say to our city council that any reasonable expenditure of money for this purpose would meet with their cordial approval.

A city is a part of the state and the nation. As we are “CITIZENS OF NO MEAN CITY,” in a far higher sense we are citizens of a great free Republic.

As we gather up the memories and traditions of our little city, that our love and patriotism may grow into fellowship with them, we will not forget the broader and more sacred obligations we owe to our entire country. We will remember with renewed thankfulness our unpaid debt of gratitude to its founders and builders.

If I remind you, it is not because you have forgotten, how they laid its foundations on the solid rock of absolute political and legal equality, and then cemented them with their blood; how they gave us a government without king, or caste, or pride of birth, where we call no man master; where there is no royal road to distinction, and where honest worth is better than coronet or patent of nobility; how they left us rich legacies in their words of wisdom for our guidance.

This great legacy is ours, not bought with a price, but a free gift. What we will do with it, and how we will execute our trust, remains to be written. If we are true to our trust, true to our fathers, true to the institutions they founded, our country will go on from prosperity to prosperity, and find its fruition in power, and safety and peace. But, if faithless, we relax public vigilance, and are seduced into yielding to the rash impulses of the hour, and permit our country to be dragged into the vortex of foreign strife,

we may make shipwreck of the noblest bark that was ever launched on the tide of time.

The God of Nations, who inspired the Declaration of Independence, who gave us Jefferson and Lincoln, who camped with our armies at Valley Forge and on a hundred battlefields of civil strife, who has safeguarded us in all our trials, will not forsake us in our present temptation. But out of it all, as purified by fire, will come a renewed patriotism, a purer love of liberty, a more unselfish public service, and a more stainless public honor, which will enable us, and our children's children, to say, with exultation and pride, not only, are we "CITIZENS OF NO MEAN CITY!" but of the great free American Republic.



## THE GREAT LAWYER

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Delivered before the State Bar Association at Springfield, Illinois

Fifteen hundred and seventy-one years before Christ, there was born in the capital of Egypt the most remarkable man the world has ever seen. Whether born in a palace or fished from the bulrushes on the banks of the Nile, is an inquiry which does not enter into this discussion, nor does our conclusion of that question, the one way or the other, increase or diminish our estimate of the marvelous genius of the greatest lawyer of any age.

Reared in a royal palace, graced by the most elegant and cultured court; taught by the most learned doctors; a member of the college of priests; initiated into the most abstruse of Egyptian mysteries; a master of the learning and culture of his time; the familiar companion of kings, at the age of forty years he found himself, by a law of the kingdom, cut off from its inheritance. Either on account of his illegitimacy, or on account of his supposed Hebrew origin, he found himself an object of suspicion and hatred to the new dynasty. He determined to found a new nation out of the "children of bondage." Two millions of slaves, the bond-men and bond-women for many generations, were the materials he found scattered through Egypt. He found an Egyptian maltreating a Hebrew and slew him, and this was the outward and visible sign of his alliance with the slave, and a declaration of war against the master. Then followed forty years of exile and solitude in that land of deso-

lation to the east of the Red Sea. This "land of Midian," with its sublimity of rocky cliff and mountain gorge; with its rocks and sand; its sterile soil and scattered pastoral people, was a fit university for that preparation necessary to his wonderful career. All the learning of the schools of Egypt; all the knowledge and skill he had acquired from the sages and doctors of the royal court; all the insight he had into the scientific mysteries of the colleges of the priests—all went for nothing. But in these dreamy solitudes of desert waste, without books, companionship or teacher, communing only with nature and his own soul upon the problems of government and law, he evolved, codified and perfected a great system of jurisprudence, which has been and will be to the end of time, the wonder of the world.

It may be doubted if any man ever impressed his genius upon his race to any considerable extent, who did not find his preparatory school in the solitude of a desert, or the dreariness of a mountain. It was so with Brahma, with Moses, with Zoroaster, and with Jesus. Consider what this man did! He returned to Egypt, gathered together a scattered mass of two million of slaves; compelled their task-masters to let them go; and kept them forty years in a wilderness. He found them ignorant, idolatrous, selfish, sensuous, and cruel. He left them a united nation, a virtuous, God-fearing people, the subjects of government and law; organized into conquering armies; with an established priesthood and recognizing to the fullest extent the obligations of citizenship, the sacredness of the family, the purity of woman, the ownership of property, and glowing with the pride of nationality; a unified and wonderful nation which maintained its

ascendency in western Asia for a thousand years, culminating in the magnificence and glory of David and Solomon. And more wonderful still, after thirty and a half centuries this same people, scattered over the whole earth in every city, village and hamlet, preserving their unity of blood and race, and their grandeur of worship and faith, exemplify the laws and institutions of this sage of the wilderness. He did this for the Hebrew race; and for himself, linked his name with all subsequent ages and impressed his genius upon the human race for all time to come.

I do not see in this wonderful history, the "wonder working rod," the smitten rock of Horeb; the miraculous manna, the "pillar of cloud," nor the "fires of Sinai;" but a more marvelous miracle, the presence amongst men of a genius so transcendently superior as to impress the conviction that God does care for his children, by raising up at proper times for them, teacher, prophet, priest, and law-giver, to lead them along paths of ascent to plains of higher civilization and better living.

"It is a terrible thing," says Carlisle, "when God lets loose a thinker upon the earth!" Terrible, because in their wake follow transitions from lower to higher plans; the crashing of idols, the overthrow of intellectual and religious systems, and the tearing down and building up of kingdoms.

This was true of Moses in Egypt and of Brahma in India; it was true five hundred years later of Gautama, the founder of Buddhism in Hindustan; it was true one thousand years later of Confucius in China, and Zoroaster in Persia; and it was true fifteen hundred years later of Jesus in Judea. It is not of Moses "the man of God," the "inspired historian,"

the "holy prophet," the "divine liberator," but of Moses the lawyer, I desire to speak.

The ordinances of the Mosaic code are of two kinds: 1st. The enunciation of great fundamental truths, as rules of civil conduct, applicable to all people and to all times. 2nd. Such as pertain primarily and principally to the government of the Jews in their then condition. Many of these latter laws, ordinances and regulations are justly considered by lawyers as unnecessarily tedious, sometimes concerned about trifling details, often involved and unmeaning, and oftener cruel and unjust. If we study this code in connection with the history of the peculiar people for whom it was intended, at the same time keeping in mind the purposes of the law maker, many of these criticisms cease to be valid. The aim and purpose of Moses concerning the Jews was, first, to wean them from the debasing sin and practice of idolatry; and, second, to create and preserve them a *united* and forever a "peculiar people."

For these purposes he created Jehovah! Not the Elohim of Abraham, Isaac and Jacob, who was the creator of the universe and the loving father of all men, but Jehovah, the God of the Jews; *their* ruler; *their* protector; *their* avenger; the divine head of *their* theocracy. They were his chosen people. He led them out of bondage; opened the sea for their deliverance; fed them with manna; guided them by cloud and fire, and gave them victory over their enemies! He was a jealous God. Visiting the sins of the parents upon their children, executing the *lex talionis*—an eye for an eye and a tooth for a tooth; and for every Jewish "male child" the "first born" of every Egyptian household. The necessities of the case required Jehovah!

To accomplish the same purposes, Moses established a priesthood; built the tabernacle; instituted festivals and forms of worship. All communion and trade relations with the surrounding pagan nations were strictly prohibited. Reasoning from effect to cause, *we* can readily see how this idea of Jehovah, so impressed, became a part and parcel of the Jewish character. He saw the end of the beginning! The unification was complete. From the end of the Exodus to the destruction of Jerusalem, the idea became more and more intensified. The tabernacle became a temple; the simple ceremonies of the wilderness expanded into the gorgeous liturgy of Solomon. And today the scattered tribes of Jacob, in every land under the sun, preserve the purity of their blood; are one people, with one God and one worship. The rabbis administer the same ordinances Levi administered at the foot of Sinai. The people keep the same feasts; sing the songs of triumph Miriam sang, and the sweet psalms that David wrote. Even amongst these local institutions and laws suited to and intended for, an isolated and theocratic people, there are found many of great value and applicable to all people in their highest conditions of development. The institution of the Sabbath; the setting aside of every seventh day as a day of rest, was the special work of Moses. No other government commanded and no other people practiced it. This was a sanitary, and not a religious institution.

He was not a religious teacher. His aim, like that of all great leaders and legislators, was to establish a high moral standard for the conduct of his people. There is not a word in all his writings about a future state. All his ordinances and rules were directed to the physical improvement of the people; to their intel-

lectual and moral advancement, and to their national success and glory. However men may differ as to the proper observance of the Sabbath, all agree as to its necessity and beneficence. Moses believed in the sacredness of the human body; and many of his ordinances are directed to personal cleanliness and to providing punishments for personal injuries and abuses. He held that chastity was absolutely necessary to the purity of the family and the glory of the nation. All offenses against female chastity were severely punished. He taught reverence to parental authority. "Honor thy father and mother" (not for some future reward but) "that thy days may be long in the land." These principles, the sacredness of the human body; the observance of the Sabbath; the chastity of woman; reverence for parental authority, impressed by the laws and inspired by the genius of their Great Law-giver, produced effects upon the Hebrew people, in their domestic relations, as marvelous as the idea of Jehovah upon their tribal unity.

It now seems desirable to speak of those immutable legal principles, suited to all times, to all countries, conditions and peoples; those great distinctive enunciations of the Mosaic jurisprudence which are the glorious monuments of their author's fame, and of which Christ spake when he said of them, "not one jot or tittle shall pass away." They have not passed away; but have found their way into all Hebrew literature, and after the establishment of Christianity, into the jurisprudence of every Christian country. In the codes of Justinian, of Theodosius, of Chalemagne, and of Alfred, are found the laws of Moses. Their painstaking compiled, but his genius created them. It is only permitted us to glance at a few of these principles

to illustrate our meaning. The only object of law or government is, protection to life, liberty, property and reputation. To subserve and accomplish this object, governments are instituted, laws enacted, offices created and taxes imposed. A few short sentences embody the fundamental principles of the Mosaic code, and embrace the entire object of law, i. e., protection to life, liberty, property and reputation. "Thou shalt not kill." Here is the recognition of the sacredness of the human body, the seat and temple of life. Here is individualism; the right of self-defense, personal dignity of character, and the protected right to all the sweet joys of living. "Thou shalt not steal." The right to the possession and enjoyment of property is recognized, enforced and protected. Covetousness, which leads to theft, is prohibited. "Thou shalt not covet anything which is thy neighbor's," is an injunction intended to sap the foundation of the common sin against property rights. "Thou shalt not bear false witness against thy neighbor." Reputation, which should be as sacred as property or life, is a sacredly protected.

All these objects of legislation are fully and perfectly protected by a complete and minute code of rewards and punishments. All the reciprocal obligations and duties of master and servant, husband and wife, parent and child, of guardian and ward, are specifically provided for and clearly defined in this great scheme of jurisprudence, now thirty centuries old. The world has not much improved upon it. It was composed for one people, but it has become the inheritance of all nations of the earth. It was inscribed upon tablets of stone, and shrined in the tabernacle, but neither tabernacle nor temple could contain it, and

its precepts have become rules of civil conduct in the lives of all civilized men.

Its author was not permitted to enter the "promised land," but he lives immortal in that land which men call fame. He went up from the plains of Moab to the heights of Beth-peor to die, and "no man knoweth his grave to this day;" but we know it is above the clouds, and that the sunshine of eternal glory has settled upon it.

This was the bravest warrior  
That ever buckled sword;  
This the most gifted poet  
That ever breathed a word;  
And never earth's philosopher  
Traced with his golden pen  
On the deathless page, truths half so sage  
As he wrote down for men.



## JUDGE LAWRENCE WELDON

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Delivered at a Meeting of the McLean County Bar, April 13, 1903,  
on the Death of Lawrence Weldon

MR. CHAIRMAN :

I became acquainted with Judge Weldon in Clinton, in the summer of 1854. It was within a few months after his location, as a lawyer, in that place.

A few weeks later I was present in the "Old National Hotel," in this city, and heard Senator Douglas introduce Weldon to Lincoln. Judge Douglas said, "Mr. Lincoln, here is a young lawyer who has come from Ohio and located in Clinton." Mr. Lincoln said, "Is that so? Well, I am glad of it; I go to Clinton sometimes myself and perhaps we will meet and get acquainted." This was the beginning of an acquaintance and a friendship fraught with varied consequences to the young lawyer.

Lawrence Weldon was then twenty-five years old. He came to Illinois well equipped for the coming contests. The time of preparation was past and in the full flush of young manhood, he entered the lists for the favors of fortune.

The struggles of boyhood and youth were ended. Acquaintances, friends and kindred, he had left behind, and new friends, new acquaintances, and new interests were to be acquired. He had come to the unknown land.

Looking backward over the half century of marvelous events in which this young lawyer acted no mean part, it is interesting to think what he saw as

his gaze sought to pierce the future which held his fortunes. What were his ambitions, his hopes, and expectations? And did the evening fulfill the promise of the morning?

He practiced law in Clinton from 1854 to 1862, when he was appointed United States District Attorney for the Southern District of Illinois, which office he held for about four years.

In Clinton he met, in the beginning of his practice, such men as Clifton H. Moore and Henry S. Greene of the local bar, Mr. Lincoln, who came from Springfield, Leonard Swett, who went from Bloomington and Richard J. Oglesby of Decatur. And when he went to Springfield he came in conflict with such men as Milton Hay, Benjamin F. Edwards, John T. Stuart, John M. Palmer, James Robinson, Anthony Knapp and Shelby M. Cullom, and from time to time all the ablest lawyers of Central Illinois.

This was great training, and when he came to Bloomington in 1867 he was a legal gladiator, well armed and equipped for the hundreds of contests which awaited him.

For sixteen years in the prime of his splendid manhood, he practiced his profession as a member of this bar. At that time I think I can say with truth, the McLean county bar was as able as any in the State, numbers considered.

Hamilton Spencer, Robert E. Williams, William H. Hanna, Owen T. Reeves, Thomas F. Tipton, E. M. Prince, and Reuben M. Benjamin were of the older set who had already won their spurs.

There was a younger set, the members of which were then striving for the high places: J. H. Rowell, A. E. Stevenson, Joseph W. Fifer, Thomas C. Ker-

rick, Isaac N. Phillips, William E. Hughes, John E. Pollock and John M. Hamilton.

It was with such antagonists, this newcomer was to wage battle in the rough and tumble law practice of a country town. And to say of him that he took high rank amongst them as a lawyer, that he held his own, that he was the equal of any of them as a trial lawyer and probably the superior of any of them as an advocate, is indeed high honor.

And when, from the weariness and strife of these many contests, the call came to "come up higher" there was no regret, no envy, no heart-burnings, and no voice that did not say, "He is worthy of all honor."

For twenty-one years he was a judge in the high court at the National Capitol. And the same great qualities of learning, courage and courtesy which gained for him fame as a lawyer, made him a great judge.

And in the calmer atmosphere of the bench his patient industry, and love of justice supplemented and crowned with new luster, the fame he had won at the bar.

To say that Judge Weldon was a great lawyer and a just judge, is to say all. No words can add to this tribute.

When I say I knew this man for fifty years and that for the greater part of that time he was my friend "faithful and true to me," I do not arrogate to myself any special claim, or assert a right to more than a fair share in a common heritage.

There is not one here today who was not his friend. Unlike most men, with him every acquaintance was a friend. His heart was so full of human kindness, that there was room in it for all.

His death came to so many as a personal sorrow. There is not a member of this bar who would not gladly speak words of kindness as a tribute to his memory.

What, out of the abundant riches of his good will, he gave to me, he gave also to many others, and I gladly share with them the rich legacy of his friendship; for like the quality of mercy, to receive it enriches, but to share it with others does not impoverish.

I count it an honor that the proprieties of this occasion permit me to express my appreciation of this character and to pay a tribute of affection to his memory.

The Romans had a god whom they called Fortunatus. To him they appointed a service and builded a temple. Those favored by this deity were said to be fortunate.

He was fortunate in that he was a poor boy. I do not mean that poverty which is the subject of charity, but that poverty which necessitates work; that kind of poverty which he shared with Jackson, Clay, Lincoln, Garfield, Seward and Blaine; that poverty which removed temptation, dignified labor and stimulated ambition. What he had was won by himself, and this added to his future success the joy of ownership.

In this school he learned there was no royal road to distinction; that he must build his own monument.

The Greeks accused Phideas of having engraved his own features on the statue he made to Jupiter. If the accusation were true, it was a weakness, for the statue is lost and the god himself has become a myth, while the man who wrought and chiseled has become immortal.

Pericles said to the Athenians, who accused him

of extravagance, "Place my name on these buildings and I will pay the entire cost." But crumbling ruins bear witness that it was not in the splendor of the Parthenon, nor in the architectural beauty of the Acropolis, he was to find an immortality of fame.

In this day of cheap heroes and newspaper reputations, it is well to learn this lesson which our friend so well understood and so well exemplified in his life. He hated shams. He claimed only his own and gave without regret, the just meed of praise to others.

He was fortunate in the lady whom he wooed and won for a life companion and to whom he brought the rich dowry of his young manhood, his honest love and the promise of future success, and who returned it all in rich measure by a lifetime of devotion to his interests; in the children who received, and deserved, his love and affection; he was fortunate in being neither rich nor poor; that as he accumulated an abundance, he did not acquire a love for riches; that he did not prostitute his great talents in the accumulation of wealth; that he retained his better ideals.

Is it not fortunate that he so lived and labored, that he could bequeath, not only to his heirs, but to this entire community, the rich legacy of this beautiful and spotless reputation?

Lawrence Weldon lived through a period which produced great events and great men. He lived and acted with great men, and was not dwarfed in their presence.

Consider the effect of intimate comradeship under many trying circumstances, with such men as David Davis; the privilege of sitting at the feet of and learning political wisdom from Abraham Lincoln; of familiar, friendly talks with Robert Ingersoll; of twenty-

one year's association with able judges of an able court; of communion in the bonds of faithful friendship with hundreds of the prominent men in the ministry, the state and at the bar, of the whole country.

Consider what these things meant to a mind capable of appreciating; a nature sensitive to the best impulses and to perceptions quick to assimilate impressions.

I say he was fortunate in his friends and he re-paid their gifts with faithfulness and loyalty.

While retaining his own original characteristics, these varied influences served to broaden and deepen, to round out and complete, a personality, which was the object of sincerest admiration.

Nature was kind to him. She gave him a handsome person, graces of manner and dignity of carriage which at once won confidence and challenged respect.

She gave him that acute sense of humor which, with his thoughtfulness of purpose and his poetic temperament, formed a trinity rarely blended in one man.

This sixth sense, so lavishly bestowed, enabled him to see things beautiful, smoothed many rough places, let in the sunshine often when the clouds were round about him and on the serious and seamy side of life, reflected the starlight of cheerfulness.

This "gift of the gods" was one of the qualities which made him a delightful companion and always the welcome visitor.

Nature gave him fine mental qualities, quick perceptions, a retentive memory, a vivid imagination and sound judgment, and all these he trained, quickened, and strengthened by study and culture.

I do not know what it is exactly to be an educated man. Judge Weldon, I think, was not a graduate of any college. I think he did not know Latin or Greek.

I doubt if he would have been better educated if he had.

He was a thorough student of the English language. He knew its philosophy and its derivation. He was well read in the history of the world. He knew its great epochs. He had read the best literature of the world. He was a master of belles lettres and an excellent grammarian. He knew men—and human nature. He was a lawyer. He knew the nature of Governmental power. He was familiar with the principles that organize society, protect property and regulate all the relations of life.

He read and loved poetry and his mind was stored with the rich imagery of Hebrew literature. He read biography and was familiar with the lives of great men and women.

He thought deeply on political and economic questions. He knew much of the different schools of philosophy and while his mind was not metaphysical, he appreciated their respective influences on the world of thought and action. These treasures of learning were the resultant of hours of application almost stolen from laborious days of an active and busy life, these garnered golden moments which most of us recklessly squander.

We all know how gentle and courteous he was, to the court and to the members of the bar. Never a word that stung, or an action that was unkind. He was careful of the feelings of others and always mindful of social obligations.

He hated cruelty and could not hear without pain a tale of suffering. He would not trample a blade of grass in unkindness.

But this gentleness was not born of timidity. He

was the possessor of high courage. He never feared mortal man. No suitor in court ever had a truer defender of his rights and I have seen him display as splendid courage as that of any soldier who ever rode down a line of battle.

But the greatest of all the gifts was a great heart full of loving kindness. Greater than hope, greater than faith, was the charity in him, which "covered a multitude," not of his own but of the sins of his fellowmen.

I have spoken of his acquaintance with great men, but his friendships were by no means confided to these. He numbered as his friends, of the lowly and less fortunate.

He was himself pure in his life. He hated meanness and despised cruelty, but the faults and foibles of others did not prevent him from seeing their good qualities or from enjoying their bright ones.

Most of us, if we detect, or think we detect a fault or a weakness in a neighbor, are too ready to obey the command "from such withdraw thyself." It was not so with him. He did not reject the good because he disliked the bad.

He saw good in everyone. It was like pouring water through a sieve, the water passed through the meshes, but the pearls of price remained.

Of him it might have been said, as it was said of the master, "he eateth with sinners," but if he ate with them he partook only of the feast and in the abundance of his charity did not include the sinner in his detestation of the sin.

He admired to the utmost the genius of the greatest orator and poet this land has ever produced. But he kept the simple faith of his fathers. This was his



optimism which saw only the good and filled a lifetime with acts of generous kindness.

No heart ever beat more responsive to the claims of charity.

If "true religion and undefiled" is visiting the widow and the fatherless in their affliction, he was a true Christian. And if the doing of good acts is the right way to "lay up treasures in heaven," there was for him a crown sparkling with gems and jewels, in his Father's house.

Like all the sons of men he had his days of gloom. Sometimes the sky was overcast. The road was not always smooth; sometimes it lay through the valley, but almost always there was sunlight on the mountain.

Expressive of his philosophy of life, he often quoted, and loved to quote, the language of the great Cardinal to the King:

My Liege—

"Through plot and counter-plot;  
Through gain and loss;  
Through glory and disgrace,  
Along the plain where passionate  
Discord rears eternal babel,  
The holy stream of human happiness glides on."

We ought not to mourn for him. He lived a full measure of life; with courage he met every obligation. He ran the course. He fought a good fight. He kept the faith. His life-work completely finished, with honors clustering thick about him, he has "rested from his labors."

And now we say *au revoir* but not adieu, and close this imperfect tribute to his memory, in words spoken by Carlisle of Robert Burns:

“He was indeed of nature’s own and most cunning workmanship. In affectionate admiration he lies enshrined in all our hearts, in a far nobler mausoleum than one of marble.”

**W**E publish the following carefully prepared address, delivered by the Hon. James S. Ewing on Saturday, July 4, 1885, at the dedication of the Litta monument. It expresses the sentiment of our people in such admirable terms that it leaves little to be added.

Mr. Ewing spoke from a stand erected a little to the southeast of the monument, and his auditors, estimated at over three thousand people, gave such close attention, that it was entirely evident they were in accord with his sentiments. The whole bearing of those present was remarkably quiet and respectful, almost devotional.

—*Bloomington Pantagraph, July 6, 1885.*

## ADDRESS BY HON. DAVID DAVIS

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FRIENDS: We have come together today not to honor the memory of a soldier, a statesman, a scientist, or any distinguished civilian. As neighbors and friends we are gathered here to set apart this monument in remembrance of one who was familiar at our firesides in her lifetime, who grew to distinction in the calling which she adopted; whose whole career, from humble beginning to deserved fame, was an example, and whose life may be said to have been sacrificed to a noble sense of duty.

To Litta, the woman, first, whose virtues shine out with luster on her sex, and to Litta, the artist, second, whose eminence is our local legacy, we are here to offer the tribute of our respect, of our admiration, and of our affection.

Mothers may point to this memorial as a cheering encouragement for their daughters, and we may all feel proud of the fame of this child of Bloomington, whose presence warmed our hearts when living, and whose memory is consecrated in the monument erected by the generous offerings of our people.

It is my pleasant function to present to this assemblage the orator, who has been fitly chosen to do justice to the name and character of Litta.

## ADDRESS BY MR. EWING

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MARIE EUGENIA VON ELSNER

Was Born June 1, 1856, and Died July 7, 1883

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She Was Known to the Musical World as  
MARIE LITTA

This is an epitomized history of a remarkable life. It tells of birth, of death, and of fame. Because they would not willingly let her memory die; because she loved her native city and reflected her fame upon it; because they would do something for her who did so much for them; because she was true to the great purpose of her life; because she was heroic and faithful, and because she was loving and gentle and winsome in her character; freely, generously, and lovingly,—

“THIS MONUMENT

WAS ERECTED BY THE CITIZENS OF BLOOMINGTON,  
TO THE MEMORY

OF HER WHO WON FAME FOR HERSELF  
AND REFLECTED IT UPON THE CITY OF HER BIRTH.”

It was a graceful thing to do. The task has been a labor of love. The response of those who gave of their abundance and those who gave their mite was of itself a beautiful tribute to her memory. In no case a refusal; but gladly and with thanksgiving were those contributions made by rich and poor, as if they would cover her with perfume, that thus she might enter upon her dreamless sleep.

You remember the blue-eyed, flaxen-haired girl who sang her wonderful songs in the days of her childhood, not very long ago; you knew something of her struggle with adverse fortune, but you did not know then of her high resolves, her consciousness of genius, her daring ambition, and the force of character which assured success.

You remember how, when a mere girl, she went to a distant city to enter upon a course of training for that high calling in which she was to achieve successful recognition; you do not know, perhaps, how for four long years she labored and studied, and agonized over the difficulties and mysteries of that most difficult of all arts.

You remember how she crossed the ocean into a strange land, alone among strangers whose very language she did not know, to find the great masters of music; you do not know the heart-burnings, the homesickness, the weary hours of tireless, patient labor, the temptations and discouragements, all of which she met and conquered during those four years of self-exile. Her brave heart never faltered. Before her indomitable will every obstacle gave way. She thought not of these things. There was one before her who, treading the wine-press alone, triumphed over it, and made it holy for her and all who suffer. It was thus with her; first a cross and then a crown.

You had almost forgotten the young songstress, when across the waters there came the tidings of her triumph. Like a new star in the firmament of music, she was dazzling and bewildering the musical world. You heard of her triumphs in the great capitals of the old world, the plaudits of welcome which greeted her in the cities of the new, and of her triumphal return

to the home of her childhood. Her fame must have been sweet to her then. She had been true to her mission through shadow and sunshine, and now she had come up from the valley of tribulation to the mount of triumph. How we rejoiced at her success; how we appropriated her fame as the days and months went by!

She came again; but what tongue shall tell the sorrow of that coming. The Angel of Death touched her life and she faded as a flower. Oh, it was pitiful! We could not understand it. It came to each of us as a personal sorrow. I have often tried to analyze the significance of that memorable funeral service, when for hours grief-stricken mourners passed by her bier—young and old, rich and poor, the lofty and the lowly—all tearful and silent in the presence of a great sorrow. Others covered with honors have died in our midst; others young and beautiful have passed from among us; many, very many times we have gone to the house of mourning; but who, like this young girl, won every heart to love her, and a whole community to feel that the world was lonesome without her?

“But, oh, for the touch of a vanished hand,  
And the sound of a voice that is still!”

Expressive of this thought, we have chiseled in marble:

“A flower is dead! A star has fallen! A bird singing the richest and rarest melody has gone from the groves of time. A woman, splendid and heroic in all the better qualities of life, has closed her eyes in death, and the voice which caught the highest sym-

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phonies of nature has joined in the chorus of the infinite."

THE FAME SHE WON WAS REAL.

It was in the realm of high art. In every cultured community, all over the music-loving world, there were the sons and daughters of genius striving for the high places. "Many, indeed, were called, but few chosen." You can count on your fingers the truly great singers of half a century. It was amongst this number she resolved to stand. The prize was a shining crown, and she determined to win it.

From the wreck of man's primal fall there have been saved many hints of the Lost Paradise, which was perfect beauty. Every manifestation of art is but the expression of beauty; and the greatest artist is the one who gives expression to the highest form of the beautiful. In the mythology of Greece, the highest of all arts was presided over by the Muses, and hence is called music. The most cultured lovers of beauty gave it a god, and built a temple for its service. What is music? What is a note? A tone? What is tune? A sonata? A symphony? What are the properties, relations, and dependencies of sound? What does the composer do when he writes music? Does he simply produce a succession of sounds so modulated as to please the ear? Does he simply arrange a combination of sounds in accordance or harmony? Or does he express ideas, tell a tale, write a poem, or paint a picture in melody? She sought to solve these questions and become a priestess in the temple. She talked face to face with the oracle, she did not linger in the portico, but passed swiftly along



the columned arches up into the chancel, and saluting the white-robed ones close to the altar, unveiled its mysteries and translated its glories by the matchless sweetness of her marvelous voice. To accomplish this required consciousness of genius, singleness of purpose, and

#### INDOMITABLE ENERGY.

I have been told that after two years of hard study in Paris she went to London to commence her professional career, but her debut was not such as to satisfy either herself or her friends. Disappointed, but not discouraged, she returned to her teachers to take up again her life of daily toil. For two years more she studied, trained, and labored. Thinking of this incident in her life brings to memory the poetic words of cheer, spoken by Thackeray, to the young maiden to whom "love's young dream" had brought the first heart-ache.

"Hop back, little bird, to your perch; it is sometimes better to be roosting than singing. The light that awaked you was false dawn; anon will come the morning, and the whole sky will be reddened with its light. Then you shall soar up into it and salute the sun with your music."

The morning did come for her, and the sky was red with its light, when, in the great cities of the old and new world, with magnificent surroundings, in the presence of beauty and culture, in splendid temples of art, she did "salute the sun with her music," and was crowned by its loyal lovers the queen of song.

Any analysis of her character which ignored

## HER LOVING AND KINDLY NATURE,

would be like taking away the rich coloring from a beautiful picture. She was generous and charitable, and kind. She shared everything she had with those she loved. The first fruits of the harvest she laid with thanksgiving upon the altar of filial affection. Even the praise and admiration she won she sought to divide with those who were dear to her. She spoke kindly of all. She was mindful of favors and grateful for kindnesses. She had no false pride. When the noon had more than fulfilled the promise of the morning, she was the same gentle, modest and winsome woman. And so we have written on this monument:

“She was loved most for her pure and gentle life, and loving hands weave roses with the laurel in the chaplet of her fame.”

## HER LIFE WAS HEROIC.

We are all hero-worshippers. Heroism, more than any other element in character, attracts the attention and challenges the admiration of mankind. Oftentimes a single act of heroic devotion to duty has won for the actor immortality in that life which men call fame. Ruth, the “queen of the harvest field,” when she said, “Whither thou goest I will go;” Leonidas, at the pass of Thermopylæ; Catherine Douglas, when she interposed her white arm as a bolt between assassins and her royal master; Arnold Winkelried, gathering Austrian spears into his own breast to “make way for liberty;” Grace Darling, looking at death in every foam-capped billow as she sped on her life-saving mission; Florence Nightingale, the “Angel of the Crimea;” Mary Stephenson, in the fever-stricken city of

Memphis; Kate Shelly, a girl of fifteen years, rushing through storm and darkness to save human life—these, and thousands of other pictures of heroic devotion to duty, appearing all along the shining pathway of human history, like stars framed in diamonds, we hang in the halls of memory. They are our art treasures, which we would not exchange for all the Madonnas in the world. Such lives we embalm in romance, poetry and song. We write them in school books, and tell them to our children that they may come to admire and imitate the principles of devotion, of honor, of self-sacrifice, of generosity, and of nobility. The whole life of Marie von Elsner was heroic, and I believe she laid it down as a loving sacrifice to duty.

#### HER LIFE WAS SHORT.

Many who hear me were men and women when she was born, and it seems an age since she died. But days and months are but poor meters with which to measure a human life. The true question is: What were its results? She always felt that she had a mission, and that she "must be about her Father's business." She lost no time. She had no childhood. She knew that "art was long," and worked while she could. And who shall tell what good she did? Who has kept the history of the good impulses inspired by her songs? What record has been kept of the good resolves and better aspirations she inspired? What was her part in the grand advance toward the realization of a higher and a more artistic life? And what prophet shall foretell the influence of her example, as it circles through the coming years?

She lived long enough and well enough to be wel-

came to the first ranks of her profession. She lived long enough to die universally regretted, and in possession of a real and lasting fame. How few of the millions of earth have done so much! There is no occasion to mourn for her.

“Nay, grieve not for the dead, alone  
Whose song has told their heart’s sad story,  
Weep for the voiceless who have known  
The cross, without the crown, of glory.”

Her life was no exception to the great law of compensation. If she had her sorrows, she also had her joys. If there was shadow, there was also the sunshine. If her way led through the valley, it also led up to the mountain. If the flower is faded, surely it will bloom again. If her sweet voice is no longer heard by mortal ears, listening faith catches a sweeter song as it floats out from the palm groves of the “Beautiful City.” This modest monument, erected by loving hands, we dedicate to her memory. We have chiseled some poor words upon it to mark our estimation of her character.

We feel that she was of “Nature’s own and most cunning workmanship,” and what we have done is very inadequate. “In pitying admiration she lies enshrined in all our hearts in a far nobler mausoleum than this one of marble.” When we make pilgrimages here it should be in the sunshine and with flowers, cherishing more than a Jewish faith in this sweet gospel of cheer and hope:

“When death strikes down the innocent and young, from every fragile form which he sets the panting spirit free, a hundred virtues rise in shapes of mercy, charity, and love to walk the earth and bless it.

“Of every tear that sorrowing mortals shed over such green graves, some good is born, some gentler nature comes.”

“In the Destroyer’s steps there spring up bright creations that defy his power, and his dark path becomes a way of light to heaven.”

## IDEALISM IN EDUCATION AND CULTURE

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This Address Was Delivered before the Young Ladies of St. Mary's School at Knoxville, Illinois

Ladies: I wish to speak tonight of "Idealism in Education and Culture." This I think is a current topic and I hope what I may say may not be inappropriate to this interesting occasion.

The cultured American girl is, by all odds, the most interesting, the most attractive, the most graceful, the brightest, the best-mannered and the most winsome girl in the world.

At sixteen she compares favorably with the French girl of twenty or the English girl of twenty-five.

It is a great mistake to suppose that American girls are sought after by titled Europeans only for their money or their fathers money; it is very often for themselves alone.

At the coronation of the late English king, thirteen American girls took their places, by legal right in the ranks of English nobility.

The wife of Sir William Harcourt, the late leader of the Liberal party, and one of the four men who controlled the destinies of the English Empire, was the daughter of the historian, John Lothrop Motley.

Miss Mary Endicott, an American girl without fortune, became the wife of Joseph Chamberlain, the great English statesman, the Secretary for the Colonies, and the man who, for a time, exercised more power than any other in the world.

Mary Leiter, a Chicago girl, as the wife of Lord Curzon of Kedleston, was the vice-regal representative of the Queen in India, and by her splendid talents and character justified the choice of her distinguished husband.

When I was in Brussels, I was pleased to meet in the wives of the English minister of the first and second secretaries of legation, three American ladies, all of whom came to their husbands as brides dowered only by their beauty and accomplishments.

In France and in Italy I made the acquaintance of American ladies holding high places in official and court circles and who did not belong to that much larger throng of American women who had exchanged surplus millions for worthless titles of nobility.

I do not speak of that long list of parties to "les mariages de convenance," who have no claim to praise or respect; they do not illustrate my argument.

You will note I said the "*cultured* American girl," not the "educated American girl;" there is a vast difference between culture and education. The one includes the other but comprehends much more.

To the training which education gives to the faculties of the mind, the acquirement of knowledge and the accumulation of facts, culture super-adds refinement of manners, the subjective study of the certitudes of life, and the development of what is best in one's nature.

Its fruitage is gentleness, kindness, unselfishness, good taste, love of beauty and a conception of what is best in the world.

Matthew Arnold says, "Culture is the acquainting ourselves with the best that has been known and said

in the world, and thus, with the history of the human heart."

I take it this means the training of the moral and spiritual nature, the enshrining of higher ideals, and a better understanding of the problems of life.

Education, in its true sense, includes not only the imparting or acquisition of knowledge, but moral training also. Yet it has come to be used in a much narrower sense as furnishing such mental training as fits a person for success in life, in the profession or business which may be selected.

We hear much in these days of the "higher education of women."

I am not sure that I know exactly just what the friends and advocates of this kind of education mean by the term but I take it they mean that young women should pursue such academic courses as will enable them to compete with men in all the vocations and enterprises of life possible, or which may become possible, to women.

They probably mean the training of the intellect by forcing processes, an acquaintance with the physical sciences, history, politics, civil government and every thing that can be learned by man or woman by years of study.

Young ladies are taught, especially and impressively, that they must cultivate a spirit of independence, must depend on themselves and fit themselves to fight the battles of life alone.

They are told that the prizes in the lottery are for them as well as for men, that in the great enterprises of this marvelous age they may engage, and hope to win; that new avocations are open to women; that



every woman should have a mission, and assert her individuality, live her own life, take her place in the march of progress, and share in its glory.

These are some of the catch words or phrases of the "new philosophy." It is very fascinating, very exciting and very enticing to youth, as it takes its first views and forms its first judgments of the problems of life.

When one begins to inquire seriously, What is this life? What am I to do with mine? What are its duties and obligations? and what are its promises and prizes?

And I do not wonder that one entering upon active life at the beginning of this Twentieth Century should wish to be an actor in its scenes, to witness its triumphs, to feel the presence, realize the significance and keep step in the march of this great transition period; to see a beautiful country grow in a lifetime from wilderness and prairie to garden and city; to see the occult elements of nature kiss the hand of science and crown with glory the genius of man.

High honor it will be, indeed, to witness and take part in all these things.

Nevertheless, these catch words and phrases, as I have called them, speak a false and poisonous philosophy and appeal to a false ambition.

It tends to

#### MATERIALISM.

In the last seventy-five years, objectively considered, the world has made marvelous progress in everything material, in the invention of all kinds of tools with which to manufacture, in the control of natural forces, in the discovery of natural laws, in the application of mechanical principles to new purposes and new

combinations, and in the increase of general intelligence we recognize the march of the human mind to heights never before attained.

Yet the conservative mind pauses in this wild progress to inquire if it is all good? if it is more than half good?

Civilization is the highest development of the intellectual and moral nature; and civilization is perfected in exact proportion to the growth of intellectual and moral culture.

No one doubts the general growth and spread of intelligence. Has moral culture kept pace?

I am not speaking of religion, but of morals. I am speaking of honesty, of unselfishness, of justice, of the hatred of oppression, of the love of liberty, of kindness, of sympathy, love of peace, hatred of war, of philanthropy, and of individual and national conscientiousness.

And I assert as to these things there has been no progress in a thousand years; more than this, I assert there has been retrogression.

The universal establishment of the competitive system in commerce which drives the chariot wheels of the strong over the bowed necks of the weak; the grasping of more than princely fortunes in the hands of the few by methods little less than criminal; the unjust division of wealth, the universal greed for gold, special legislation in the interest of power; the decadence of the national conscience, which in the interest of commercial prosperity and national expansion, calls wrong right and justifies public robbery—are some of the evidences of the truth of my assertion, which no individual or accidental charity can refute.

Within the last quarter of a century Christian Eu-

rope has partitioned the continent of Africa. "Oriental possessions" are paving the way (if only they can agree among themselves as to the division of the spoils), for additional robberies. The right to buy sovereignty, to take by force, lands and revenues, to impose government without consent is called "expansion" and the republic is justified in its conscience.

The republic which sympathized with Greece, voted resolutions to encourage Poland, cheered Hungary, and aided Ireland in their struggles for liberty, refuses a word of sympathy to sister republics engaged in the death struggle for national life, because she is herself engaged in the most gigantic robbery of the century.

What of all this? Nothing—except that it shows the materialistic tendencies and character of the age; and out of it and ministering to it is this educational fallacy about which I am speaking.

It is worse because it applies to and effects the best part of humanity.

Having spoken to you of its inciting cause, let me now speak, delicately, as it appears to me, of its

#### EFFECTS.

What is the product? There are grades—conceded. There are degrees—admitted. There are exceptions—that is also admitted. But the average product is not good.

Masculine, loud-voiced, assertive, argumentative, careless of dress, the woman who imbibes and whose life is governed by these ideas loses interest in things purely womanly.

She becomes restless and dissatisfied with her environment; believes in a "mission;" seeks a "career."

She organizes clubs, conventions and assemblies; studies parliamentary rules and learns to preside.

She becomes a politician and plays at holding caucuses and conventions after the manner of men. She may not neglect her home, but she loses interest in it and becomes less interesting to the home.

She builds club houses (with her husband's money), travels alone (or with others like minded) to distant cities, to caucus, make speeches, organize and presides.

She lectures, delivers addresses and debates; she demands her rights, wishes to vote, to be manly and independent. This is the effect on herself.

The effect upon men is to blunt their fine sense of chivalry, to send them to the clubs and worse places. There is a severance of joint interests, also of comradeship, a weakening of home ties, a restlessness, a hopelessness, as the color fades from the flower and life poems change to prose tales.

The effect upon the children and the generation to come, some one wiser than I must tell. But there is a more practical effect this spirit of independence is producing upon entire communities.

Will you think for a minute of the industrial positions today filled by women to the entire or partial exclusion of men.

1. Stenography—an art of recent growth; stenographers and typewriters in every counting house and office, numbered by the hundreds of thousands, all filled by girls or women.

2. Clerks in stores are almost universally saleswomen.

3. Out of 900,000 school teachers in the common schools 90 per cent are women.

4. The immense number of domestic servants are mostly women.

5. The great and important business of feeding people in boarding-houses, cafes, dining-rooms—the employes are all women—cooks, waitresses, and maids of the chamber.

6. And if this is true of “what shall we eat?” it is also true with “wherewithal shall be clothed”—90 per cent women.

7. Time fails to tell of trained nursing, the various kinds of clerkships, agencies and money-making employments from which women have excluded the weaker sex.

8. And now they are knocking at the doors of the professions, they invade lecture platforms, the missionary fields; they have gained admission to the medical and legal professions and are petitioning assemblies, conventions and conferences for admission to the sacred ministry.

There is nothing much left for young men to do except on the railroad and on the farm. The question now is what will our girls do with our boys?—400,000 young men in the United States, between the ages of twelve and twenty-three, out of employment.

Isn't it a little pathetic? And what can they do? The professions are many times overcrowded; the girls have all the other places.

I would not be misunderstood. I find no fault with any girl or woman when it is necessary to earn money, who seeks and finds employment, and I honor and respect her all the more and I rejoice with her that so many avenues of industry are open to her.

I do find fault with the young woman who has a natural protector in father, brother or husband, who

for the sake of a false sense of independence, unnecessarily seeks these, to her, unnatural employments.

And I do find fault with that system of education that teaches a false notion of independence. Will you think for a minute what must be the result of these industrial conditions? When daughters, sisters and wives cease to depend on fathers, brothers and husbands and take their place as bread-winners. Then what? Then natural conditions are exchanged—the woman must support and the man must depend.

It means loss of manhood and the fading of the bloom from womanhood.

These facts and conclusions will not seem exaggerated to the observer who has seen from day to day, in the past years, boys and young men, in continually increasing groups, standing idle all the day in all villages, towns and cities, and who has tried to answer anxious inquiry of father and mother, "What can my boy get to do?"

Now the grumbler should always be able to suggest a remedy or a better way. It may not be much of a way, but it should at least rise to the dignity of a suggestion.

If I were an educator, I would not say to a boy, "If you are a good boy, if you study hard, are industrious and obedient you may become President of the United States.

I would say to him, be ever so good, industrious and obedient, the chances are 20,000,000 to one you will not be the President, even of a railroad. But you can be an honest, honorable man and a cultured gentleman; this is within your power, not subject to a single chance.

I would not say to a young girl, if you study hard,

if you improve your opportunities and attain the higher education, there are a thousand avenues open to earn your own way, to be independent, to assert your individuality, to take part in great enterprises, to make a name, to win fame and to enjoy the beating pulsations which come to the winner of the prizes of life.

I would say to her, "You cannot do these things and be justified in your conscience." I would teach her that there is a loyal dependence on the love of a father, brother or husband, sweeter and nobler than any personality; that the sweetest and most winsome thing in the world was womanly dependence upon, and faith in, love.

I would teach her that it is better to be queen of the household than president of a convention; that to be a cultured, gentle and loving woman is to be the very best thing on earth.

That gentleness, kindness, sympathy and unselfishness are better than jewels.

I would teach her that to beautify and cheer the home with a kindly presence as a daughter, to be the honored wife of an honorable man and the mother of beautiful children, is the perfect fulfilling of all obligations.

I would tell her to study "Mother Goose melodies" instead of Jefferson's Manual, and that to preside at her husband's tea table is higher honor than to preside over a woman's congress.

There are those who are always wishing to advance progress.

We call these people "reformers." There are those who want to think before acting and investigate before agreeing. We call these people "conservatives." When

we are not very polite we call them "grumblers" or "kickers."

Nevertheless the world of humanity will always be divided into these two classes.

There are some people who believe that "two and two makes four." This they seriously believe. They consider it a proposition which cannot be successfully contradicted. They would not go to the stake to vindicate its truth because materialists are never martyrs; but they would feel personally aggrieved if anyone should dispute the proposition, or fail to duly appreciate its importance.

There are others who are not entirely convinced that "two and two makes four;" they have never seriously considered the question, they have never attached so very much importance to the matter, and to tell the truth they don't care very much; it wouldn't make any great difference to them if "two and two" should happen to make five.

To them, the consequence of this infraction of a mathematical law would not be half so serious as a variance in a curved line of beauty or the brushing of the bloom from a single flower.

Between the two my sympathies are with the "dreamer." If Matthew Arnold is right that culture is to "learn the history of the human heart," we can see how this subjective principle enters into every phase of life and its study

#### THE STUDY OF HISTORY

let us take for example. What is the object of the study of history? "To learn what the human race has done in the past." This is the answer of the materialist.



The idealist says: To produce culture we must "know the history of the human heart" and, therefore, not only what the human race has done, but what it has thought and believed and felt; what were its emotions, ambitions and hopes; what were its aspirations, its imaginings, its loves and hates, its comedies and tragedies; in all its varying stages of progress or retrogression.

And how and where are we to learn all these things? From the partial and doubtful records of battles won and lost?

In the lives of long lines of kings and military heroes who have for the most part disgraced instead of governing mankind? In the accounts of kingdoms reared and torn down, of governments instituted and destroyed? What do these things teach of the "history of the human heart?"

Rather in poems, in love stories, in fragments of song; in monuments, in sculptured stone; in mythologies and traditions; in sagas and myths; in the gods who were worshipped and feared; in the heroes deified and debased, can we hope to trace from faint beginnings the evolution of a race from barbarism to the higher planes of civilization.

And so, you see, it enters into the study of

#### LITERATURE

What would the world literature be but for the unknown geniuses who created the Persian, Grecian and Roman mythologies? whose "gods hallowed the heights," whose messengers of wisdom and queens of love watched over the destinies of men; who peopled spring and stream with Naiads; every tree and

leafy dell with Dryads and the air and water with fairy and nymph!

As the divine teacher taught spiritual truths by fable, parable and allegory, so we learn from this cosmogony of gods and heroes what were the early views of religion, what the early ideas respecting the origin of things, of the powers of nature, the rise of institutions, the history of races and communities, and thus of "the history of the human heart."

What would the world's literature be without the siege of Troy and the wanderings of Ulysses?

Are the creations of Homer less real than those of Gibbon?

Are Ajax, Achilles and Priam less real than Alaric, Genseric and Tamerlain?

Are Helen and Penelope less real and less lovable than the Queen of Scots or Marie Antoinette?

The creations of genius move us strongly by the chords and discords of our dreaming and so far as they are true to human nature, we may weave from these, mystic ideals, forms rare and real.

This subjective principle, or idealism, has its effects in the culture which comes from

#### TRAVEL

It is very curious to observe what different things different people see in visiting and observing the same things, and what different things they desire to see and observe in the same place.

Dr. Franklin observed that currents of electricity in Paris differed curiously from those in Philadelphia.

Audubon observed that in Paris the pigeons preferred to fly north; Robert Fulton observed that the Seine was narrower than the Hudson.

Mr. Barnum thought the Coliseum would be a good place for a circus, but observed it had no roof, which would be bad in case of rain.

A young Catholic lady who traveled with Mrs. Ewing and me in Italy said the thing she desired most to see in Rome was the picture painted by the Virgin Mary.

Another American lady confided to me that she "liked Rome because it was like New York." She said it was true there were a good many old ruins there yet, but she thought they would soon disappear and the lots would be built up with fine houses.

Brussels is a city of 800,000 people and the most artistic city in Europe.

The places visitors want most to see are the houses in which the Duchess of Richmond gave the ball where "Belgium's capital had gathered its beauty and its chivalry," on the night before the battle of Waterloo, so graphically described by Lord Byron.

And the little schoolhouse where Charlotte Bronte taught her classes and wrote her love stories.

In Geneva the most interesting thing is the church in which John Calvin preached, and the house in which he wrote his "Institutes."

In Prague they show you, first of all, the church of John Huss, who in Bohemia preached his reformation a hundred and fifty years before Luther was born.

In Edinburgh it is the old pulpit which John Knox hammered as he hurled his anathemas against the wicked Catholic queen.

The culture which comes from travel is to feel the touch of humanity as you connect scenes with the deeds of men who have lived and loved and suffered.

By imbibing the spirit and calling to memory what-

ever there may be of noble action, self-sacrifice or act of heroism of those who have made the city famous.

This principle holds good in the study of the physical sciences.

In the study of

#### BOTANY,

for instance, it is not sufficient to learn of genera and species, the various and complicated classifications of trees, shrubs and plants, and commit to memory long Latin names.

This is knowledge but it is not culture. A flower considered with reference to the number of its stamens and petals, the formation of its leaves and the brilliancy of its color, does not compare with the "glory of Solomon."

Let us take a very common illustration. Go into the cornfield when it is in tassel and silk.

You have studied enough to know that unless the pollen comes in contact with the seed there can be no ripening or reproduction.

Ordinarily, the pollen is very near the seed and just above it and there is little apparent difficulty in their coming together.

But in this instance the flower is away above the ear of corn, and, moreover, the grains are wrapped about by thick layers of husks to safeguard and protect them.

The problem is to bring the generating principle in contact with each one of these golden grains.

Unwrap these husks and you will find embedded in the crevices between the rows, strands of little silken threads, each one attached to a single grain of corn, all coming out of the end of the shuck encasement

and forming a beautiful silken pendant to the growing ear of corn.

Each one of these threads is hollow. When the mating time is come the wind blows over the field; little particles of golden dust are shaken from the flower; the air is laden with its golden glory; these little particles light on the end of those wonderful conductors and are drawn by capillary attraction to the waiting grain; a million marriages take place; the act of germination is accomplished; the seed is vivified and capable of reproducing a thousand other of its kind.

This is a marvelous process. Henceforth the corn-field is no longer common but "holy ground," for you stand in the presence of a continually occurring miracle.

Now "consider the lilies *how* they grow." Thus "considered," we know that "Solomon in all his glory could not be arrayed like one of these."

Let me take another illustration from the science of

#### ANATOMY AND PHYSIOLOGY

It is not sufficient to learn the number of bones, their location and names, the circulation of the blood, the nerve centers; the location, names and articulations of the muscles, the offices of all and their connections and relations.

You must go deeper. There is much beyond. This is knowledge but not culture.

Let me take again a very simple and common instance. A bone is broken. The surgeon places the ends of the fractured bone in apposition, secures them by proper bandages and splints. That is the extent of his power. In a thousand years the most learned and scientific of his profession could not cause a cure.

But nature has a laboratory into which no human scientist can enter, a process of healing absolutely perfect.

Almost immediately there flows out from the lacerated tissues surrounding the fracture a liquid which washes away blood clots, impurities and particles of bone.

In a few days there flows in and surrounds the fractured ends a kind of lymph which allays the fever, fills up all the interstices and lays the foundation for the cure.

In another few days this lymph changes to cartilage, then in another few days out into and through this cartilagenous mass shoot little nerves and blood-vessels, through which are transmitted, from the blood, particles of ossific matter, which hardens into bone.

The union from cartilagenous becomes ossific. Then again nature forms around and about the fracture a band to hold the wounded parts in safety, which again in its turn is absorbed and carried away by the blood, leaving a smooth, sound, cured and perfect bone.

Science stands abashed in the presence of such a cure. It is wonderful, as all the works of God are wonderful. In the working of the wonder is manifest both intelligence and beneficence; and the heart answers the inquiry of the Hebrew prophet. There "*is* balm in Gilead; there *is* a physician there."

I have tried to show the influence of idealism in producing culture, in the ordinary methods of education, in the study of history, in literature and in the physical sciences.

But there is still outside of the books and beyond the schools broad fields for study and rich oppor-

tunities for culture. There are lessons which nature teaches in all the languages.

There are problems of life to be solved more intricate than differential or integral calculus.

The great book of the human heart is to be learned chapter by chapter and page by page.

We may not all become post-graduates in these studies, but we may learn much if only we pursue the right methods.

To these studies, also, the subjective methods are best.

Men and women create their own ideals. And it is not paradoxical to say in turn their ideals shape their own characters and views of life.

Our ideals sometimes become heroes and sometimes idols.

We are all

#### HERO WORSHIPPERS—

and hero worship is not bad, if only we worship the right kind of heroes.

Humanity is peculiar; it builds more monuments to its butchers than to its benefactors. In the long, dark history of the race the popular hero has been the man who kills, rather than the man who heals.

We still have schools in which we educate to kill, and teach the science of slaughter.

There is, and there can be, no such thing as a military hero. To worship such is false idolatry.

We often, when our highest ideal is up in the clouds, make unto ourselves golden calves, and often they are not even of gold.

Our late war with Spain developed numbers of false heroes for public worship. A naval officer suc-

ceeded in shooting to pieces some rotten Spanish ships; the newspapers made him a hero.

His admirers presented him with a fine house, which he immediately deeded to his recent and rich wife. And his glory faded as a flower.

Another naval officer was supposed to fight another great naval battle in which the remainder of the Spanish ships were destroyed. He became a hero.

Congress gave him a vote of thanks; the courts awarded prize money; then it transpired that he was not at the battle at all, and this idol was dethroned.

A young gentleman, still another naval officer, undertook to sink a coal barge in the wrong place, and did not succeed even in doing a wrong thing; still it was a brave act and he became the hero of an hour.

Some young ladies kissed away his halo and his monument fell, not, as I love to think, on account of the kisses, but on account of the beanstalk nature of the monument.

A Kansas colonel captured the leader of the Filipinos by strategy, it was said, and he became a hero and came 8,000 miles to personally receive the grateful praises of his countrymen.

It transpired again that this valiant hero had forged letters, dressed American soldiers in the enemy's uniform and, while partaking of the enemy's hospitality, shot down and murdered his guard, and made him prisoner in violation of the rules of war and of the most sacred rules of hospitality.

And now the most ardent lovers of war can find in these transactions no elements of heroism.

Let us believe that the whole world is full of men and women in high and low stations who sacrifice their



pleasures, their comforts, their ambitions and their lives to round out the lives of others.

We may never know their names, but in our hearts we can build an altar to the "unknown hero."

And when we read or hear of some brave act, some kind action, some unselfish devotion, some self-sacrifice, some thoughtful kindness, some duty heroically performed, we can *there* bring our garlands of sympathy and appreciation.

Against the materialism of the restless Marthas who are "troubled about so many things," I would oppose the idealism of Mary, who found her highest spiritual beauty and her grandest ideals in the love of the Master.

I speak not of your religious life; of those holy relationships I may not enquire, but of that idealism which will enable you to see clearly and like Mary "choose the better part."

Not in high station, not in great wealth nor in the praises of men, nor in the possession of power is to be found the greatest good; nor are they the objects of highest ambition—weigh them all over against the unselfish love of a single human being, against the consciousness of some good deed well done, against a pure life, against obligations fulfilled and duties performed; and which are the certitudes of life?

From this idealism will come the charity which will fill your life with good deeds and lay up for you treasures incorruptible and enduring.

From it will come that kindness which will enshrine your life in loving remembrance.

From it will come that love of nature in her gentler moods; which plants shade trees along the dusty high-

ways and fills the waste places with forms of grace and beauty.

From it will come philanthropy (the rarest of all the virtues) which seeks the highest good for the generations to live hereafter on the earth.

And from it will come that unselfishness which forgetful of benefits to self, seeks in good done for others its crown of rejoicing.

## EXPLANATORY

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The following argument was made in the case of *Caverly vs. Canfield*, commenced in the January term, 1881, in the Circuit Court of La Salle County, Illinois. The trial commenced June 24, 1881, and lasted twelve days. The case grew out of the following facts: On May 10, 1880, a young lady residing in Ottawa, Ill., of good family, independent means, unexceptional character and high social standing, was delivered of an illegitimate child, which lived but a few hours. The event created more than the usual amount of surprise, gossip and scandal. She claimed she was never conscious of a wrong act, that a great wrong had been done her while in a state of unconsciousness. It was to prove this contention and vindicate herself this suit was brought.

The lawyers for the plaintiff were Mr. Bull, of Ottawa, Hon. A. E. Stevenson and myself; for the defendant, Judge Leland and Hiram Gilbert. The argument following is by no means the best one made in that unique case, but happened to be the only one taken down by the stenographic reporter.

### THE RESULT

of the case was a verdict of \$50,000 for the plaintiff. The young lady remained for some years in Ottawa and then removed to Chicago where she married a reputable business man and is now the mother of two daughters, highly reputed and cultured young ladies. The defendat lost his practice, took to drink and in less than a year died on the street in a fit of *delirium tremens*.

## ARGUMENT BY MR. EWING

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*Gentlemen of the Jury:*

Since I have been in your beautiful city, during the progress of this remarkable trial I have been so engaged with the preparation and prosecution of the case that there has been little time to extend an acquaintance which, I can but regret, is so limited. But, by those whom I have met, my reception has been so cordial and sincere that I have ceased to regard myself as a stranger amongst you. From his Honor on the bench, from the members of this bar, from gentlemen of the press, and from yourselves, I have met with the kindest greeting.

In opening the argument in this, the most remarkable and interesting case I have ever known, I wish to deal honestly with you. It is the province of counsel to analyze the testimony and assist, by legitimate suggestions, the jury in arriving at a proper conclusion, and to decide properly the issue presented to them. Anything more than this cometh of evil. And I desire to state in the outset that many things which I may say should be taken with many grains of allowance. I am not a disinterested spectator of these proceedings. I have much more than the ordinary interest of the lawyer in the result of this case. Pecuniary reward and professional pride are dwarfed into insignificance in the presence of a personal interest so intense. Gentlemen, in the course of some twenty years' practice at the bar, many times, in many ways I have trembled, as I do now, when I realized the responsibilities of my position, with such vast interests committed

to my keeping. But I say to you today, in all truthfulness, that the sum of all the interest which I have felt in all other cases does not equal the intensity of that which I now feel in the cause of this orphan girl.

For ten days you have listened to its details with a kind attention I have never seen equalled. For this I thank you. This young lady is much more to me than a client, intimate and sacred as that relation is. I have known her intimately from childhood. She has been a visitor in my family. I know her sunshiny disposition; her superior intellectual qualities; her cultured manners; her generous nature; her perfect purity in word, act and thought. I know her orphaned and lonely condition; I know how tenderly she has been cared for in a virtuous and loving home. I know her honored ancestry; I know her life's history all along its pathway of shadow and sunshine, and hence more than any one, except the plaintiff herself, I realize to its fullest extent the infernal cruelty of the outrage she has suffered. Therefore if, in seeking to picture this case to you so that you may see it in all its peculiar phases, I should seem to exaggerate, charge it not against her or her cause.

I rejoice, gentlemen, that my client's cause is to be submitted to such a jury, and I congratulate her that it is so; I congratulate her that when you have rendered your verdict you will not go upon the corners of the streets, to the slums of the city, to the abodes of vice, to render an account of your high trust in *coteries*, where the honor of man and the virtue of woman are alike mythical. But I rejoice that you will return to virtuous homes, to loving wives and daughters, to the contemplation of that virtue which sanctifies every Christian household. I say I rejoice

in this because I wish you to rise to the high plain of a perfect faith in the innate purity of woman. There are moral monstrosities who do not believe in the honor of man or the virtue of woman. I envy them not. I detest and loathe the sentiment which would detract so much as a mite from the high estimate placed by all honorable men upon that crown of a woman's life which glorifies her womanhood.

Naturalists tell us of a small animal called the ermine. It is covered with a delicate white fur, which is used to adorn and beautify the gowns of judges who sit in the high places of justice, and the coronation robes of kings. It is an emblem of purity. We speak of the judicial ermine, to typify the incorruptible purity of justice. It is said that hunters entrap these little animals by smearing the ground about their homes with pitch and dirt, knowing they will lie down and be taken, preferring to die rather than defile themselves. So it is with every true woman. And no man is fit to be an arbiter in this case who does not bring to the discharge of his high duties an abiding faith in the virtue of the mothers and daughters of our home-blessed land. That life's misfortunes, man's deceit, cruel want, or a thousand causes growing out of a vicious life, have and will forever create exceptional cases of female depravity, we all admit and regret. But there is a royal virtue implanted in the pure hearts of good women, which shuns contact with vice; shrinks from whatever is unchaste and indelicate; avoids the very appearance of evil; and blushes like a camelia at the impure touch of passion. I say this to you because I intend to throw into the scale which holds the fortunes of this plaintiff this honorable sentiment. I intend to invoke it, as I

have a right to do in her case, and ask you to hesitate before you decide, as the unthinking and uncharitable have done, that a young lady delicately and tenderly reared by a virtuous mother, graduating from the Sabbath school, breathing always the atmosphere of honest home life, cheered by the example of cultured loving friends, cherishing the proud memory of an honored parentage, having all her life, through childhood to mature womanhood, lived a blameless life, without scandal and without reproach—that such a one would, in mere wantonness of passion, throw away the pearl of great price and make of her life a moral wreck.

Again, I wish you to rise to the dignity of this great occasion. There never has been such a lawsuit tried in this court. His Honor, who has adorned his profession by a long and honorable service at the bar and on the bench, never has tried, and probably never will, another such. The inquiry it necessitates enters into some of the most intricate and interesting problems of medical science, into the very mysteries of the origin of life, into the laboratory of the chemist, into the laws of circumstantial evidence, into the laws of human motives and conduct. Involving in its scope and range every emotion and passion, it lays bare before you the innermost secrets of a human life, with its cloud and sunshine, its loves and hates, its agony and rejoicing, its past disgrace and coming triumph.

I ask you as you go with me over the history of this life, to bring with you your quickened intelligence, all your human sympathy; all your love of justice and scorn of wrong; that manhood which detests a cowardly act, and that chivalry which would throw

its strong arm around the defenseless. It will be a pathway of sorrow such as wearied feet have seldom trod. There will be something of sunshine; a few flowery by-paths; here and there a sweet resting place; but for the most part it will be over broken rocks, with bleeding feet. There will be stations where I will invite you to rest and look upon some pictures graphically drawn by the witnesses in this case, and doubtless indelibly imprinted upon your memory. It will be a profitable if not a pleasant journey, and we will return from it as men from a house of mourning, with better hearts and purer aspirations.

You are told you must decide the case as you would between two men! You cannot do it; simply because it is not a case between two men. You are not required, when you enter this court room, to leave your human hearts at the doorway. There is no danger of erring through sympathy, because if the plaintiff is the vile creature they claim she is, you can have no sympathy with her or her cause. And, so on the other hand, if she has been wronged, as we claim she has been, kindness to her is a virtue, and human sympathy is transmuted into eternal justice. I ask no verdict at your hands through pity, prejudice, or passion. We will not accept a verdict on such terms. We are trying this case not only before this jury and this court, but before this community; before the vast concourse who come here from day to day to witness its proceedings. A verdict which is not based upon indisputable evidence will do her no good. She seeks, through this trial and your verdict, a vindication, full, complete and perfect, in the eyes of the community in which she has always lived; and it must have a foundation as solid as the rock. For eighteen months



the case of Fanny Caverly has been on trial—in the newspapers, on the streets, at church meetings, in saloons, and worse places. In none of these trials has her voice been heard. The evidence has been *ex parte*; the juries have been packed; there was no cross-examination; she was allowed no counsel, and the courts were organized to convict. But, thank God! after weary, weary months of waiting, through dreary days and sleepless nights, her cause is tried in a court where her voice has been heard and *where his voice has been silent*.\*

#### WHO IS THE PLAINTIFF?

Gentlemen, I have said to you this is a remarkable case. The plaintiff herself is no ordinary person. Fanny L. Caverly was born in this city; she has grown to womanhood in the midst of this community. Up to the day when the daily papers heralded to the world, with cruel headlines, that little paragraph which caused pain to so many loving hearts, her reputation was as spotless as that of any maiden in the land. Up to that moment the tongue of slander had spoken no word of suspicion against her fair name. Moving in the first circles of an elegant and cultured society, here and in other cities, where she was always a welcome guest in the purest homes, she was respected, admired and loved. The cruel shaft which struck her down found indeed a shining mark. Her father died when she was a child. She never knew that strong, manly, fatherly love which would have been a shield and buckler for her defense. God pity the orphaned

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\*The defendant, Campfield, did not testify in his own behalf.

condition of the girl who starts out upon her life journey without companionship and protection! She was too young to realize this, and her great loss was in many ways made up to her by the loving, tender, watchful care of an idolized mother, who devoted her pure and unselfish life to the education and care of her only child. Most of us have been called, some time in our lives, to stand in the presence of a great sorrow. In the death of a friend, a father, a mother, a child, we have felt the gloom settling down upon us, and how lonely the world was. She stood by the grave of her mother and heard the sound of the clods falling upon the coffin lid, echoing the throb of a broken heart. This was her second great sorrow. But time, the great healer, deadened her pain, soothed her anguish and brought to her "beauty for ashes and the oil of joy for mourning." In the buoyancy of youth and hope the world was clothed again with verdure. She had scarcely laid away the garments of mourning when death took from her her aged grandfather. This was her third great sorrow.

Alfred W. Caverly was one of those great pioneer lawyers to whom this great commonwealth owes so much. The compeer of Lincoln, Douglas, Lockwood, and Breese, he impressed his character upon his age and generation. A man of strict integrity and commanding ability, he wrote his name upon the legislative and judicial history of his adopted state. He lived to a ripe old age, and, spanning an age of mediocrity, seemed to connect the intellectual glories of the past with the coming glories of the future. In his old age he took his orphaned grandchild to his bosom, and this great love was the sunshine of his declining day. Now she was almost alone in the world, only

the old grandmother who has stood by her so bravely in these terrible days, and whose sad face you have seen from day to day during this long trial. It does seem there had been pressed into this young life sufficient of sorrow. Will not some good angel turn away the bitter cup?

Again the clouds cleared away and the sunshine came into her heart. You have heard, from the testimony, that for nearly three years, and until the 6th day of August, 1879, an engagement of marriage existed between the plaintiff and Mr. Metcalfe. He was a young lawyer residing in St. Louis; he came to Ottawa bringing a letter of introduction to her grandmother from a mutual friend. In time he offered her his hand in honorable marriage and was accepted. It was the old story. There were happy meetings; there were walks by the river; there were rides by moonlight; there were music and flowers; there was the love-light in the eye at that one time which comes to most men and women, when heaven comes down near the earth. Then there was the parting. I have told you that her's was not an ordinary character. When she came to believe, as she did believe, that there was not the perfect love "which casteth out all fear" from a woman's heart, in the splendor of a courage which has won your respect and admiration, she tore this hope from her heart and gave back the remnant of love, the whole of which she felt she did not possess. And so this dream was over, and she went back to the old life. The sacrifice was made, and she was justified in her conscience.

This is strange talk in a court house, but we are dealing with human passions, and a broken heart has been laid bare before you. It is only through this

sacrificial offering her peace can come; it is only in the blood of a bleeding heart she can wash her robes and make them white.

### THE TREATMENTS

In May, according to her letter to Dr. Byford; in March, according to her present memory; in April, as her grandmother remembers (the date is not material), she went to the defendant for treatment. He was then, so far as the people knew, a reputable physician. He had attended her grandfather in his last illness. He treated her at home during the summer months for what he told her was falling of the womb. In August he suggested to her the propriety of coming to his office for treatment. He said: "There were all the conveniences for treatment; it would be much more convenient for him; less expensive to her; that she could come with perfect propriety." And why should she not? I say it was perfectly proper. He was a member of an honorable profession. This was a guaranty to her that she was as safe from insult and wrong as she would be in the presence of a priest and under the solemn sanction of the confessional. At the time of a visit made about the 25th of September he gave her wine, as he said, to "quiet her nerves;" its taste was peculiar; but not unpleasant; it was a sweet and pungent taste; its effect was peculiar, as she now remembers. A countryman came to the office just at this moment and was rudely dismissed. She said to the defendant, "Do I look cross-eyed?" He said, "I think you are ready for the operating room." This is all she remembers until she found herself in a dazed condition, having undergone, as she supposed, the usual

treatment, but remembering nothing of having been unconscious. It had never been necessary to administer wine before. It was highly improper to administer it under the circumstances. We charge that the defendant at that time took advantage of her helplessness, and while in a state of insensibility, produced by some hellish drug, without her consent or knowledge, had sexual intercourse with her, which resulted in her after pregnancy and the birth of her child. This charge we have proven by an array of testimony which left nothing for its completeness except the final silent confession of the defendant himself. To the discussion of that evidence I now invite your attention.

These wine treatments were repeated three times—twice in October and once in November. What drug was used we do not know. It is not material that we should know. It is sufficient that we have shown to you by the testimony of five reputable physicians that there are various drugs known to medical science which might have been used. Much has been said as to the properties and effects of narcotics, intoxicants and anæsthetics. You must form your own judgment from the testimony. We have surmised that the drug used was *acetic ether*. We find from books and from experiments that it possesses all the properties and produces the effects necessary.

First—It possesses about four times the intoxicating properties of alcohol.

Second—It excites the erotic or amatory passion to a high degree.

Third—It remains from five to six minutes in solution with white wine.

Fourth—It produces insensibility rapidly, and its effects pass away as rapidly.

We do not pretend to say this was the drug used. It is sufficient that we have found a drug that might have been used. From the last one of these treatments, which was in November, she returned home suffering so much that she determined to receive no more. A few weeks afterward she so informed the defendant, stating at the same time that she was going to Bloomington and would take treatment from Dr. White. Permit me, gentlemen, to call your attention to the conduct of the defendant at that time. He was excited; told her she should not go; she would rue it if she went; and used language to her which she then regarded as almost insulting; so much so that she felt indignant and left the office.

Defendant's witnesses say he told her, "If she was a married woman he could tell her what was the matter with her," etc. Plaintiff says she does not remember these words, but that he used language intending to convey the same idea. Why did he object to her going to Bloomington? How did he know in November that she was pregnant? How did he know? This was in November; her menses were regular in August and September. It was less than two months since the act of coition. No other living being knew she was pregnant. She was as innocent of such knowledge as a vestal virgin. Dr. White failed to discover it in January; Dr. Stout did not suspect it in February; Dr. Byford was not certain in March; Dr. Hathaway pronounced her trouble a tumor on the 5th of April; and not until the 15th of April did any one of all these physicians discover the foetal circulation. But this man knew it in November. There was the cessation of the menstrual flow and the slight bloating which might arise from a thousand causes consistent with a

pure life. And yet he knew she was pregnant. I submit to his learned counsel this question for their consideration: Was it superior medical skill, or was it superior knowledge of a cause? This significant fact is susceptible of but one construction. He knew of her pregnancy because of his guilty knowledge of the cause.

#### SHE WENT TO BLOOMINGTON

You saw Mrs. Dr. White on the witness stand, and in the court room sitting by the plaintiff. You saw her daughter, who was also an important witness in this case, and I need not tell you into what a home this plaintiff went with her burden of shame. To the lifelong friend of her sainted mother; to the pure presence of her young companions; to the scrutinizing gaze of one of the ablest physicians of this or any other state; to the familiar companionship of friends and acquaintances; to the criticising inquiry of strangers, she went, I say, with her burden of shame. Not only this, but she freely discussed her condition and invited a medical examination. Upon what possible hypothesis can this conduct be explained, save that of innocence? Think you, if she had been conscious of her real condition, or of its possibility, she would have done this? If she were the abandoned creature defendant's counsel claim to believe her, she could not have done it.

Would she not have fled, like a guilty thing, across continents and oceans rather? Would she not have sought solitude and a home amongst strangers? Can a sinner, bearing the scarlet letter of her burning sin, stand unabashed in the presence of the angels of Paradise? Answer these questions out of your own hearts, gentlemen. I saw her on that bright New Year's day,

beautiful as the morning, the sweetest, brightest, most winsome face in all that bright and happy throng. I said to her, "I wish you a happy New Year. From my heart, my dear little friend, I wish you a happy New Year." She seemed so bright, so full of enjoyment, so happy. If I could for a moment have lifted the veil which obscured the future, and have realized never so slightly, the terrible agony and suffering through which she must pass during the next four months; if the scenes which you and I have heard so graphically described could for one moment have passed in panoramic pictures before me there, I would have wished her dead at my feet. And it would have been a God's mercy to her. Death is not the worst thing which can come to a man or woman.

Let this New Year's scene linger in your memory. It is the last one in all the long picture gallery which has anything of sunshine in it.

The 10th of February she returned to Ottawa. The defendant was again consulted. He came to her house, made an examination, and said he wanted counsel; would like to have *Dr. Stout*.

Defendant's counsel tell you that *Dr. Stout* is a simple hearted, confiding sort of a man, full of faith, and easily influenced and deceived. It may be so. Either he has, in these nefarious transactions, been the defendant's dupe or accomplice, and it suits our purpose that you may consider him the one or the other. They tell you "he was misled and deceived by this young girl." If you are to believe what they say of our client, how you must be filled with wonder at her capabilities. Just think of it! Here is a young girl who was never in a court room in her life before; who has absolutely conceived and carried to completion a



deeply laid conspiracy, involving innumerable details, extending to three cities, covering a great many times, relating to many conversations with many persons, asserting unusual scientific conclusions, weaving physical facts in the woof of human testimony, producing a senseless garment of circumstantial evidences, in which experienced legal acumen has failed to find a rent. To carry out this conspiracy she has deceived or suborned five of the first physicians of your city to support her theory. She has not only deceived her own counsel, but has dumfounded the defendant himself. Still, this you must believe if you believe she deceived Dr. Stout. Gentlemen, Dr. Stout may have been deceived, but not by her. He may be a dupe, but he is the dupe of a man who induced him to do things which no reputable physician would do, and to swear to a fact which five reputable physicians tell you could not exist. I have no hard words for this poor old doctor; I care nothing for him. His testimony, contradicted as it is, by himself, by other witnesses, and by all the circumstances of this case, you can not believe! For the part he has played in shielding, or trying to shield, this defendant from the consequences of his crime, I leave to him the consciousness that twelve men will say by their verdict they do not believe one word he has said; that this whole community despises him; that decent women will hereafter shun him; and that his insignificant name will, for the brief remainder of his life, be joined in infamy with that of this nefarious defendant.

#### THE ATTEMPTED ABORTION

Gentlemen, go with me in imagination to the home of this plaintiff. It is the third day of March. The

defendant is there. Dr. Stout is there. The old grandmother is there. You have never witnessed such a scene. The defendant removes his coat; the warm water and the sponge have been prepared, and the poor girl, as innocent as a lamb, is laid like a sacrificial offering upon the couch. I can not describe what followed. The defendant, with his arm about her shoulder, and his ear to her person listening for the first sign of the foetal life they were about to destroy; how the *sound* was used to lacerate the tender membranes; how they cut away a piece of her quivering flesh to carry out their cruel deception; how the probang was introduced into the mouth of the womb to make sure of their murderous work. How could they do this cruel deed? Was there no pity? It would seem to me a heart of stone would have melted. Why did they do it?

Dr. Dyer, Dr. McArthur, Dr. Hathaway, Dr. Hard, and Dr. Curtis, all tell you that the "natural effect of these instrumentalities would be to produce an abortion;" that there could be but one purpose subserved. What was their object? The act they attempted under the laws of Illinois was a felony. In the lower walks of the medical profession are found those who, for great reward, will take the risks of infanticide; but there is not a recorded instance of such an attempt without the request of the patient or any of her friends. And they did it. Why? Why? is the still recurring question. I will tell you why they did it. The man who could perpetrate the first infamy would not hesitate at a less crime to shield himself. If he succeeded in killing the child, the mother would, for her self-protection, carry the secret to the grave. If, in murdering the child, they killed the mother

also, the mother, the babe, and the secret would be buried in a common grave. Again her innocence protected her and another of the guilty indices of crime points to the defendant. And you see, gentlemen of the jury, how one by one these proofs of guilt are linking themselves into a chain, which no logic, no legal ingenuity, and no perjury can break. Let us pass on to the fifteenth of April.

Dr. Dyer has described, in language, a scene which neither you nor I will ever forget. I saw the tears come to your eyes when he told you of this scene: "I went with Dr. Hathaway at the request of the plaintiff to make an examination and consult as to her condition. She met me with a cheerful smile and laughingly said: 'Doctor I am getting alarmed at my condition; just see how large I am; I am determined to know what is the matter with me if it takes all the doctors in the city.' We made the examination; I almost immediately discovered the foetal circulation, and told her what was the matter. She said, 'Oh! no, you are mistaken; that's what Byford said;' but I convinced her, and then I never witnessed such a scene. It has been my business for thirty years to stand by death-beds, and I have witnessed many scenes of sorrow, but never such agony as this. She was perfectly raving; she called on God to witness that she was innocent. She said: 'Oh! my Heavenly Father! what have I done that this should come upon me!' " Gentlemen, you will live many years before you can forget this language; it will burn itself into your memories and you cannot forget it if you would. It was on that terrible fifteenth of April when she knew for the first time her condition. Then the iron entered into her soul. Hitherto she had suffered much, such as few

of the daughters of earth have ever suffered; but then mingled with her sufferings was nothing which comes of disgrace. Poignant grief and almost every depth of mental agony she had known, but hitherto no shadow of shame had fallen across her pathway. Physical suffering she had borne as other delicate women have done oftentimes before; but, who, like her, in history, fiction, or song, have you ever known, who has been called to bear the burden of another's sin? And in such a way? Oh! gentlemen, your tears are no disgrace to you; they are the evidence of a noble manhood and do you honor.

#### THE BIRTH

of her child on the tenth day of May brings us to another scene of agony. How swiftly they follow one after another.

“ So disasters come not singly;  
But as if they watched and waited,  
Scanning one another's motions,  
When the first descends, the others  
Follow, follow, gathering flockwise,  
Round their victim sick and wounded,  
First a shadow, then a sorrow,  
Till the air is dark with anguish.”

On that dark, dreary, rainy Saturday night, all through its sleepless hours in her sick chamber this young girl lay waiting, waiting for the morning, which to her could bring no joy; the very heavens weeping for the sorrow which no tears could soothe. Most of you have stood by the bedside of a loved wife, in that supreme hour of martyrdom, when, for the

first time she feels the agony of birth, and you remember how you wanted to take her in your strong arms and suffer for her some of that agony. To any woman who goes down to the very verge of death to give another life, there is pain and suffering such as man never feels; and this, too, when she knows the morning will come with the joy of motherhood. But think of her about to become a mother and not yet a wife! Add to the combined agonies of death and birth the anguish of shame and disgrace, and you can realize, to some slight extent, the fearful darkness of the waters through which she has passed. I told you she had suffered as few had suffered in this life. She has, indeed, walked through the furnace seven times heated; but, thank God! the Angel of Innocence was by her side, and there is not the smell of fire upon her garments! In the light of the perfect vindication of herself from fault, what reparation can these Christian ladies make to her for the desertion of an unfortunate sister? What will the church do? What will the Minister of Christ who refused to visit this fatherless girl in her affliction, do? What will those *honorable gentlemen*, who for eighteen months have stared at her and insulted her upon the streets, do? I will tell you what they ought to do; they should make haste to get down on their knees and ask her pardon; they should uncover their heads in respectful reverence when she passes; they should seek to redress the wrong they have done to one, the hem of whose garments they are not worthy to touch.

Let me call your attention to the evidence of Dr. Dyer as to the declaration of the plaintiff on the fifteenth of April. He says, when she had become somewhat calmer, he asked her who could have so wronged

her. She said: "There never had been the opportunity to any man, except it might be Dr. Canfield, when he administered wine to me in his office," and this same story, without variableness or shadow of turning, she has maintained ever since, asserting it at all times, in all places, and under all circumstances. Do you remember the testimony of Dr. Hathaway as to what she said just before the birth of the child? He said to her, between those terrible spasms of pain he so graphically described: "Fanny! women sometimes die in this sickness, tell me who is the father of this child?" and then in the very shadow of death and under the solemn sanction of its presence, she called God to witness that the only one who could have done her this wrong was the defendant. Gentlemen, in all lands, and under every codes of law, *ante-mortem statements* have been received in Courts as crowned with the sanction of an oath. Fortunately for it, fortunately for her, and for all, death claimed this little waif in a few hours, and she was left alone with her misery and shame.

Alone in the world; something she must do, but what? You cannot properly try this case unless you put yourself in her place. The first thing she did was a wrong thing; she realizes it now; realized it soon. The advice she received was bad advice; it was not disinterested advice; it was given in his interest, not hers. Dr. Stout was her physician. He told her, "Nobody knew it; she could save her good name." "Get up, paint her face, go out and visit the neighbors." "Give the lie to any report and all would be well." She followed his advice as Eve followed the advice of the serpent in the Garden; as confiding women have followed bad advice in all ages; and

came to grief as all men and women will do who depart from the straight path. She admits her error. She tells you that in the deepness of her distress she was willing to shield him in order to save herself. Before you condemn her as her good christian neighbors did, I say again, "Put yourself in her place." Much has been said to you about the sin of lying; and these learned legal gentlemen who do not hesitate to denounce and insult this poor defenseless orphan girl in your presence, and to play the blackguard for the amusement of blear-eyed debauchees, deliver to her their hypocritical homilies on the beauties of truthfulness. Let us see about this thing of

#### LYING

Is every untruth a lie? Is an untruth told with the intent to deceive, but not injure, a lie? Then every Christian mother who for two thousand years has told her child of Santa Claus, and how he brings gifts to good children, is a liar. Why, the entire science of war is founded on the art of deceiving; it is one form of self-defence; that divine law which comes down from God and impresses itself upon all animate nature. Is an untruth never justified? If you meet a friend and say, "How well you are looking," when you know he is not looking well at all; if you say to a fleshy man you are growing thinner; or to a thin man you are growing fat, is it a lie? Would you exchange all the little complimentary untruths which hurt nobody and make people feel pleasant, for that "get-to-heaven" truthfulness, which would destroy all society in twenty-four hours? These are questions in metaphysics, in morals, and manners, which may or may

not be profitable for you to solve. I commend them to the prayerful consideration of defendant's counsel as they say their prayers to-night. But what of all this? Because out of this conduct of the plaintiff has come the great impeachment. To these ladies whose little wounded vanity is soothed by coming into court to impeach her character for veracity, I felt like saying, "Which of you is without sin?" They all agree, however, that up to the time when she attempted to deceive them, her reputation was pure and spotless. I pass by this attempt to add insult to injury. This jury will say by their verdict she is worthy of all belief, and these ladies will live to regret that they have in any way laid one straw upon the burden she has borne, in the interest of a man whom they will hereafter shun as they would a pestilence.

#### THE TRIAL

She made no mistake the second time she determined to vindicate her character. If it had been your daughter or your sister there would have been no trial. The unwritten law of the land justifies the avenger of his daughter's disgrace, and holds the outraged husband guiltless who takes the life of the despoiler of his honor. But she was an orphan girl, and she determined to seek that temple which, in theory at least, is always open to the orphan. The people of this country are now erecting a magnificent temple of justice, which will stand for many generations as a memorial of their appreciation of a government of law—that law which protects the property, the reputation, the liberty, and the life of the humblest citizen. For a thousand years, wherever the English language



is spoken, orphans have been the wards of the Court. She sent for Esquire Fisher, who had been a friend of her grandfather; had been a Justice of the Peace. She supposed he knew whatever was worth knowing of the law, and that he would advise her as to her rights. Rights she knew she had. Wronged she knew she had been. Innocent she knew she was. That the law would furnish her a remedy she believed. You will pardon her impatience when she found this old ignoramus was not only an old Dogberry in his ignorance, but insulted her in her helplessness. "Better let it drop! There is but one way; the natural way! The defendant will deny it, and nobody will believe you!" Well, old Dogberry was just this far mistaken. The defendant didn't *deny* it, and everybody believes her. And now, the vicious old curmudgeon comes into court and swears against the orphan grandchild of his life-long friend, with a growl and a snap that would be worthy of a toothless old dog. She was not discouraged, and was more fortunate in her next effort. She found a man to advise her whose advice was worth something. This suit was commenced by my associate, Mr. Bull, and with sleepless diligence and untiring purpose, with wonderful ability and undoubted faith in its justness, he has prepared it for trial. And I say to you he can never do anything that will forfeit the respect and gratitude I feel towards him for his efforts in her behalf. There has never been one moment when this plaintiff faltered in her perfect faith in the result of this suit. No obstacles have been sufficient to create a doubt. She has waited and watched for this day, when she could tell her story and compel a hearing. She has not shrunk from any necessary thing, but with a courage as sublime as was

ever shown on a battle field, she has laid bare her whole heart to you. Compelled to talk of things the most delicate, of relationship the most sacred, she has not hesitated. It was necessary to her perfect vindication, and she has had the courage to do it. She was on that witness stand for eight mortal hours; she underwent a cross-examination which for length and persistency I have never heard equalled. And, gentlemen, you never heard and never will hear another such witness. Never in a court before, she was calm, self-possessed, earnest, accurate in all details, explaining everything, never hesitating for one instant, replying to defendant's counsel just as willingly, pleasantly, and politely as to us; never crossing herself; using language perfectly elegant and chaste, and with such perfect truthfulness that she forced conviction into every heart. You heard her story. You looked into her beautiful face and saw the signet which the Almighty has set upon truth, and you believed. Her case has not rested upon her own testimony, but has been corroborated in every particular by witness after witness, by circumstances and physical facts, until it has culminated into a perfect demonstration.

#### THE BLACK FLAG

We were met in the outset of this case with the most remarkable statement I have ever heard in a court of justice. The gentleman who opened the case for the defendant stated to you that "this was a case in which they would grant no mercy; in which they would neither grant quarter nor ask for it." In the course of a somewhat varied law practice, extending over a period of more than twenty years, it has

been my fortune to try, or assist in the trial of, some important causes—causes involving large amounts of property; involving reputation, liberty, and even human life. I have heard hardened criminals tried for infamous crimes, but I never before heard it said, “that no mercy would be shown; that no quarter would be granted.” Who has authorized him to hang out the black flag? Why, gentlemen, in all honorable warfare, amongst all honorable men, the white flag is recognized as a signal for a cessation of hostilities. The savage Modoc of the lava beds will not strike a foe under a flag of truce. It is only the assassin and the pirate who nail the black flag to the mast and murder their victims while crying for quarter. Whence originated this sentiment? Not from the senior counsel for defendant. His long and honorable service as a representative of justice forbids us to believe it. Not from his mild blue-eyed associate; “as mild a mannered man as ever scuttled ship or cut a throat.” It emanated from the man who has shown her no mercy. Well, be it so! In the name of this orphan girl I take up this gage of battle and say to him:

“Walk blindfold on! Behind thee stalks the headsmen!

Lose not a trick—by this same hour to-morrow  
Thou shalt have France, or I thy head!”

We understand well the character of this foe; we understand well the nature of this contest. It is war to the knife; and the knife to the hilt. One or the other of these parties must go down. It is a sharp issue. Either she will go out of this court vindicated in the eyes of this community, or he will triumph and

she will go into exile. Either he will be completely vindicated or we will hang a scarlet letter about his neck, and write on his office door the words of Dante: "Let her who enters here leave hope behind."

#### WHAT IS THE DEFENSE

to this action? Absolutely nothing! Whatever there was of confidence in their cause in the opening, has given place to desperation. All there is left of their valorous defense, so confidently proclaimed, is the belief that, like the blind Samson, with locks shorn and strength departed, they may pull down the pillars of the temple upon their enemies. Do you recall how sneeringly the learned counsel spoke of the absurdity of a woman becoming pregnant while in a state of unconsciousness? How he told you very irreverently, as I then thought, that for eighteen hundred years there had been but one instance of immaculate conception. And yet what have you seen and heard? That self-same gentleman rising in his place and saying to us and the Court, "It is unnecessary to introduce any more evidence upon that point; we concede it!" When they find the books are full of such cases; when they find case after case reported; when doctor after doctor comes upon the witness stand and testifies to you that generation is the result of physical contact; that the will or consciousness has nothing whatever to do with it, they concede what has been so abundantly proven, and say, "You need not introduce more witnesses; we concede it."

But if they cannot defeat her suit, they can at least *blacken her character*. She is followed by spies and informers; every little innocent act or speech is

distorted and twisted into a semblance of sin. Everything that money and malice could do against her has been done. From the stone quarry to the home of the harlot, the defendant's feet have been swift on the track of perjured testimony, and witnesses have come flocking to his call. There was *Barbara Ellen Morgan* with her wonderful lie. Did you observe her? What a figure to throw into the witness box! Did you ever hear such a voice? Did you notice her graceful manner as she was escorted to the witness stand by the Honorable Judge? The arrangement of drapery was superb. Did you notice the sweetness of her voice and the beauty of her manner while answering the cross-examination of my friend, Mr. Bull? It was evident they were not congenial. Did you wonder how old she was? Had she a father or a mother? Had she ever loved? Gentlemen, I will not insult your intelligence or sense of decency by alluding to the sickening lie with which she polluted this court room and your presence, and stained still deeper her vicious soul with perjury. I will, as defendant's counsel have done, in charity, cover it with a veil of silence. Before her tale was half told she was self-impeached and self-convicted, and it needed not the impeaching witnesses from Utica and Ottawa to tell of her life of shame and crime to cover her with disgrace and infamy. I can by no words of mine add to the contempt and loathing you feel for her. But what shall be said of the man who conceived this monstrous lie, and brought this miserable creature into your presence to poison with her polluting breath the atmosphere of a court of justice?

Then came the *young man from the stone quarry*, who told you a pretty tale of a walk by the riverside,

and what he saw. He was discharged from the stone quarry on the fifth of August. This he knew from a memorandum. It was five days after this he saw the plaintiff and Mr. Metcalfe; in about a week after this he saw them again riding out. Now Metcalfe left here on the eighth of August, just two days before this fellow pretends to have seen them, and so this self-confessed spy and sneak, with his little lie, only half sworn to, goes down.

And what shall we say of Griffith, the shoemaker, who ran a booth at the fair in September? He swears that returning one beautiful moonlight night, in September, from his duties at the fair ground, at eleven o'clock in the night time, he saw, or thought he saw, the plaintiff and Metcalfe "sitting on a stile." But Metcalfe wasn't there after the eighth of August, and the plaintiff was entertaining the young ladies who were visiting her during the fair; and so this liar makes his exit.

Then comes Mrs. Nettie Nash, the irate neighbor, who confesses that she had for four long years carried locked up in the innermost recesses of her heart the blood-curdling and heart-harrowing secret of what she had witnessed with her own eyes, to-wit: that the plaintiff had been seen four years ago, at nine o'clock in the morning, on the porch of her own house, sitting on the lap of one Dr. Waters. Gentlemen, I have read of a man who had committed a terrible murder, and with his guilty secret locked in his breast he wandered over the entire earth seeking to separate himself from it. But in vain; for everywhere he went it was always present. In every moaning wind he heard the voice of the murdered man, and in every foam-capped billow of the sea he saw the face of his victim. But

compare, if you can, such a secret with the one with which for four long years this witness burdened her soul until at last it found utterance, and she found relief on the witness stand. It is true that during all these years she had continued to visit the plaintiff and to receive her visits—never considered herself scandalized by the friendly companionship; and after all it wasn't true, for the doctor came all the way from Chicago to tell you that the plaintiff did not set on his lap at nine o'clock in the morning on the porch, nor at any other time or place. He tells you also that he had known the plaintiff from childhood; that they had grown up together; that the families had been on the most intimate terms; that her conduct towards him had at all times been the most delicate and lady-like. The plaintiff also denies in most explicit terms the reflection upon her modesty of demeanor. And so, according to every rule of evidence, this witness, who confesses that she was acting the spy over her neighbor's house, must take her place with the other less respectable witnesses who precede and succeed her.

Then there was the *clerk at the news stand*, who saw the plaintiff and Metcalfe walking on the street together at eleven o'clock at night. It turns out that they had been to the theatre and were walking home. This young man may not be a liar, but he is swift to distort facts in the interest of falsehood, and is but a shade of a shadow better than a liar. Then there was Gibson, who tells you how he was once invited to a party; that the plaintiff was there; that the night was warm; that the yard was lighted up with Chinese lanterns; that most of the guests were out doors; that the plaintiff sat in a hammock with another young lady and gentleman, who turns out to be our modest

friend, Dr. Lester Strawn, and the other young lady his sister. Great God! gentlemen, can such things be and not "overcome us like a summer cloud?" What a step from Barbara to Gibson!

I now introduce you, gentlemen of the jury, to the *superannuated old dressmaker*, with her chalky face and "little nighty." With her, marriage is neither a reminiscence nor an aspiration; waxing old in years; without pride of ancestry or hope of posterity. Looking back through the long vista of time, she recalled the recollection of some fond dream of the past, gets it confused with some saying of the plaintiff, and comes with her little offering of slander against the young lady, who for fifteen years had been her kind patron. She "thought it was a foolish little thing at the time," and although the age of Methuselah is past, she may live long enough to realize how foolish and wicked it was to come here and testify to a "foolish little thing," which, if true, had no materiality to this case, and could only result in wounding the feelings of one who had never injured her, but from whom she had received many kindnesses.

This ends the first chapter, and do you not see, gentlemen, how, all along this dusty road, where passion and malice have reared eternal discord, the Angel of the Lord has camped around about His child? How, from Barbara Morgan, with her monstrous big lie, down to Tarbor Sansburg, with her foolish little lie, they have fallen into the pit which they have themselves digged? Have you not seen, in every instance, how some facts or circumstances have appeared to give the lie to these officious slanderers? Truth is consistent. Things that are true stand together, and this plaintiff, strong in her truthfulness, has not feared



what might be said about her conduct. This effort at special impeachment has, as signally failed as did the effort to impeach her general reputation for truth and veracity. They have alike shown the harmless malice of this defense. There is no other foundation for an impeachment than what she has freely confessed before you. She did attempt to deceive in order to protect her good name, and most grievously hath she paid the penalty. But who shall rebuke her? Who shall cast the first stone at her? Surely not the defendant! You could not appreciate a sermon on the ninth commandment from him. Talk of Satan rebuking sin! Did he not cruelly wrong and deceive her when he professed to be an honorable member of an honorable profession? Did he not cruelly wrong and deceive her when he told her she could come to his office with propriety? Did he not cruelly wrong and deceive her when he cut and lacerated her quivering flesh to carry out another cruel deceit? Did he not cruelly wrong and deceive her, when he, by fraud and false representations, induced her to write a letter to Dr. Byford, and then added to his other crime the contemptible crime of larceny? And yet this miserable wretch, whose life has been a living lie—who is, himself, the incarnation of deceit and fraud—presumes, through his feed attorneys, to lecture the plaintiff on the “exceeding sinfulness of sin.” A lecture on any of the virtues comes with a bad grace from such a source.

What else is there of this defense? We are told that her letter to Dr. Byford contradicts her own sworn statement as to dates. In order to understand and construe any written instrument we must understand first the intention and object of the writer. What was the object of this letter? To get informa-

tion. Information of what? Of her condition. Remember she was not suffering from the old trouble. It was not about that; she desired medical advice. She knew all about that. That was a local trouble, and had been cured. The visits with reference to that trouble and the treatment she had received were not present to her mind. What she wanted information about was the stopping of her menses and the bloating of her person, and it was concerning these things she was trying to recall her symptoms. Remember this letter was written at the dictation of the defendant. True, she mentions a treatment in May, but she mentions that, as she tells you, at the particular suggestion of the defendant. She was asked "if her memory was better now than when she wrote that letter," and she said it was, and when asked to explain how that could be, she replied, "I have not thought of anything else." Was not this perfectly consistent? Memory is but the power to revivify and recreate impressions once made upon the mind. There is a theory in mental philosophy that no impression ever made upon the mind is entirely effaced; that nothing is entirely forgotten; but that memory will, if sufficiently exerted, recreate and renew the picture. This may be, to some extent, fanciful, but we all know the rejuvenating power of recollection. Have you ever tried to recall the lines of a poem or a hymn which has almost faded from your memory? It may have been a little poem learned in childhood, or a love song which you have not had occasion to repeat in years. When you first made the effort you could scarce repeat a line, but by repeated efforts of memory you recalled first a word, then a line, then a couplet, then a verse, until the entire poem glowed in your memory as fresh and beautiful

as when you first learned it. This is the revivifying and recreating power of memory. It is wonderful; as all the qualities of the human mind are wonderful; as all of God's works are wonderful. She had dwelt upon every little incident of these strange events. Through weary sleepless nights and joyless days they burned themselves into her memory. They were present in every troubled dream and waking thought, until they came to be a part of memory itself. And so, when you come to understand these things, you no longer wonder that her memory is better now than when she wrote the Byford letter. They are welcome to any comfort they get from a mistake in dates. This lawsuit will not be determined by a mistake in dates.

But what will the defendant say as to his connection with this Byford letter? What explanation has he given you? Why did he procure it to be written? Why did he request it sent to him? When it was written why did he not send it to Byford as he had promised to do? Why did he, in violation of the most sacred confidence, show it on the streets to whosoever would listen to his lying slanders? Why did he commit the crime of larceny in order to hedge against a criminal charge which had not been made against him, and of which he had not been suspected? These are questions more interesting to you than questions of dates. This transaction is one of the indices of crime, pointing with unerring finger to the guilty criminal who "flees when no man pursues." When he has satisfactorily explained his lying and cowardly conduct in connection with this letter, it will be time enough for him and his counsel to complain of mistakes in dates.

What further is there of this remarkable defense? With a chivalry which would have honored a Knight

of the Round Table, defendant's counsel taunt this plaintiff with what he is pleased to assert as a fact; that *she has been deserted by her friends*, and especially the respectable ladies of Ottawa. Why, he asks: "Is it necessary for her to go to other cities for friends to sit by her side during this trial? Where," continued the orator, "are the lady friends she once had? Where is the minister of her church and his wife, and the other good, respectable ladies who have so often visited her home and partaken of her hospitality?" And so this defendant, as a defense, through his counsel, taunts her with the result of his infernal rascality. "She has been deserted, and therefore she is guilty and he is innocent." This is the sublime argument. She has been deserted—cruelly and senselessly deserted. It was natural, as the world goes, that women should desert her. It has been, and probably always will be so. Two persons commit the crime of adultery. The woman must bear the bitter fruits of indiscretion in her own person. She may be the least guilty, she may not be guilty at all, but henceforth she is an outcast. Her wedding garment is taken away and her sisters preserve their own respectability by abusing her. For him there are no words of reproach. He is received into society, introduced to wives and daughters, and left free to select another victim.

This is man's justice. It is because it is so; it is because of this desertion we brought this suit. It is to regain these lost friends—such of them as are worth regaining—that we appeal to the law; it is because the priest and the Levite pass by on the other side; it is because the preacher refuses to visit her in her deep distress that we would restore her to respectability, so that his pure priestly robes may not be soiled by her

presence; so that he can, without fear of losing his respectability, obey his Divine Master's injunction "to visit the widow and the fatherless in their affliction;" it was because we wished to show by evidence, "strong as proofs of holy writ," that all these misfortunes had come upon her without any fault of hers, and this desertion had been causeless and wicked; it was because we wished to show this community was harboring a fiend in human shape, compared with whose presence a pestilence is a benediction; it was because we desired to prove to these respectable Christian ladies, who have so uncharitably misjudged their sister; that they have done so in the interest of a thief, a liar, a suspected murderer, a despoiler of female honor, and a miserable coward, who shrunk from an examination into his crime-stained record; it is because we desired to bar their doors against a man in whose presence neither their own nor their daughters' honor is safe for a moment; that we have brought this suit. Yes, she was deserted, and that by friends who had received nothing but kindness from her. But we are not asking any additional damages on account of this loss. She will try to bear it, as she has greater afflictions, with pious resignation. One of the rewards of a life of sorrow is the building up of a strong character which can correctly estimate the motives and value of human friendship. "Night brings out the stars." She will exchange some colored glass for real jewels. They will be less in number but of greater value.

But where is the real defense to this action? Did the defendant do what we say he did? All that has gone before does not rise to the dignity of an attempt at a defense. There has been an attempt made to connect Mr. Metcalfe with this case, and this attempt

creates the necessity of an examination into the *foetal age of the child at birth*.

To this point much of the testimony has been directed. The importance of this inquiry will readily suggest itself to you. There is no pretense that any other person is in any way connected with this plaintiff. After the breaking of her engagement with Mr. Metcalfe, as was very natural, other young gentlemen, knowing nothing of this fact, did not visit her, at least intimately. Bear in mind, from the 8th of August to the 28th of September was short. Her life during that period has been open to investigation. If any one was in any way connected with her during those six weeks, the spies and informers of this defendant would have found his home and pronounced his name. But they have breathed the name of no one. So it is again a single issue. Metcalfe left Ottawa on the 8th day of August, and this plaintiff never saw him until she saw him to-day on the witness stand. The child was born on the 10th day of May, 1880, making a period of 227 days.

It was a seven-months' child. What are the evidences?

1. Mrs. Cavarly, Fanny, and another swear to a physical fact, which, if true, makes it absolutely true that it could not have been older. And no one disputes this fact.

2. Dr. Dyer and Dr. Hathaway testify to certain physical indications, which they discovered before the birth of the child, which all the medical testimony in the case assures you are infallible indications of the foetal age of an unborn child; and these facts, if true, show conclusively the child was a seven-months' child at birth. Nobody contradicts this testimony.

3. Dr. Hathaway and Mrs. Cavarly testify as to physical indications of age after birth.

(a) It was twelve inches in length.

(b) It weighed three pounds.

(c) Papillary membrane was just commencing to open.

(d) Finger nails were but partially grown.

(e) The bones of the head were open and flexible.

(f) Life feeble and languishing; and all the other indications of a seven-months' child.

4. The positive testimony of Mr. Metcalfe and the plaintiff. And who contradicts or questions this array of proof? Dr. Stout! He says it was a nine-months' child.

But he is directly contradicted by Mrs. Cavarly, the plaintiff, and Dr. Hathaway, to whom he stated at the time of the birth that the child was a seven-months' child; by Dr. Dyer, to whom he stated within a few days after its birth that it was a seven-months' child; by Dr. Hard, to whom he made the same statement; by his criminal connection with the defendant either as his dupe or accomplice. And yet it is insisted that this one witness, who changes his statements as soon as he learns their significance, is to weigh down witness after witness, circumstance after circumstance, and physical fact after physical fact. And upon the sole testimony of this contradicted and impeached witness hangs every hope of this defense.

*As to the main fact* upon which our case is based there is absolutely no evidence for the defense.

*The defendant does not deny* the statement of the plaintiff. He does not dare to deny it, for it was God's truth, and the doors of the penitentiary were opening to receive him if he denied it. Why did he

not go upon the witness stand and deny that he had been guilty of the charge we make? He knew whether she was telling the truth or not. He is the only living human being, except the plaintiff, who does know with absolute certainty.

He could have told you, and he did not. He could have explained, and he did not. He could have pronounced her testimony false, and he did not. He could have said, "I am not guilty of this great transgression," and he did not. He could have denied she was at his office when she says she was, and he did not. He could have denied that he attempted the crime of infanticide, and he did not. He could have denied that he administered to her the infernal drug we say he did, and he did not. He could have denied that he committed larceny to shield himself from the consequences of a greater crime, and he did not. These sins of omission must be visited upon him.

Why, gentlemen, I want you to consider the brazen impudence of this defendant and what he asks of you.

You have sworn that you would try this case according to the evidence. You are acting under the solemn sanction of an oath. You are responsible to God and your own conscience for your action in this case. *Now he asks you under your oaths, to say what he dared not say under his oath; to do for him what he dared not do for himself.* You may be induced to do this, but I do not believe it.

Here sat the defendant within six feet of the witness stand. The law gives him the right to testify in his own behalf. He did not see fit to do it. Why did he not do it? It was a confession of guilt and you will take it as such. What explanation is vouchsafed by his counsel? The gentlemen do not agree. We are



told by the one that the "defendant has a contempt for this plaintiff and her case," and that he was acting under their advice in not testifying. This was very satisfactory until you heard the other counsel rise and explain. He tells us the defendant refused to go upon the stand against his advice, and this is followed by the most remarkable statement I ever heard in a court. Judge Leland says his client would not testify because plaintiff's counsel had been looking up his record; that they would ask him "if he did not murder his wife. If he did not commit another murder in Philadelphia. If he was not living under an assumed name. If he did not commit a similar outrage upon another orphan and friendless girl—*giving names, and places, and dates.*" And then he stated that "every household has its skeleton." What a statement for a counsel to make about his client! These gentlemen should have had a consultation. When statements do not agree they are in a bad fix. They are required to apologize for introducing the witness, Barbara, and for not introducing their client.

Gentlemen, what would you think of this plaintiff, if after having brought this suit, she had refused to testify to the facts she charged in her declaration? If she sat mute, and confessed by her silence that the charge was an infamous fabrication? I ask for him the same even-handed justice you would have meted out to her, under the same circumstances. I do not accept either explanation. Suppose one of you was charged with the commission of an infamous crime—a crime which, if proven upon you, would render you infamous for life; would destroy your business; disgrace your wife and children, and close the door of every virtuous household against you. Suppose you

were innocent of this charge. Suppose, farther, you had an opportunity to deny it under oath. Suppose, farther, that your salvation depended upon your testifying. Would you do it? I will risk this case upon the decision of this question. He did not swear, because he did not dare do it. I believe he would have committed perjury. I believe him to have committed greater crimes, but I believe him to be a base coward who does not dare to face the consequences of his crimes. If he has a contempt for this plaintiff, what must be the contempt you feel for him!

Now, gentlemen, I've said all that I desire to say; you have listened to me with the kindest attention. I thank you for myself, but much more for this orphan girl whose cause I have so imperfectly presented. You will not visit upon her any of my imperfections. She has spoken for herself much more eloquently than I have or can speak for her. The defendant has also been eloquent in his silence. A great change has come over the public sentiment of this community. The gentleman tells you he has a contempt for this "crowd." Since when? He expressed no contempt for this same "crowd" when in the commencement of this trial it cheered his indelicate and brutal assault upon the plaintiff. But he has seen, as you have, the tear in the eye of sympathy. He has seen the "hand-writing on the wall"—hence his contempt. But you have no such contempt for the plaintiff or her cause. She is worthy of all honor, and her cause is the cause of outraged innocence. Into your kind keeping I commit everything dear to her without a fear of the result.

In her name; in the name of Innocence, wherever it may be; in the name of your own wives, daughters, and sisters; in the name of her sainted mother, whose

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invisible presence I believe hallows this scene, I ask you for a full, perfect, and complete vindication of my client.

The morning cometh, and the night of her sorrow shall be swallowed up in the light of a perfect day. Her sun, which rose through clouds in the morning, and was obscured at noonday, shall have a cloudless setting. She shall go from this temple out of the clouds into the sunshine; she shall walk the streets like a queen, and there shall not be, in all this beautiful city, a true man who has heard of this case, or who shall hereafter hear of it, who will not resent even a look which threatens her with insult.





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