

# THE ALIBI

BY  
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"The rest of it," he continued, "is as the coroner has already told you, except that I didn't attack Mr. Slayton with any murderous motive in the directors' room. When I realized how he had deceived me and accused me falsely, I couldn't control myself. I struck him, gentlemen. It was wrong, I admit, but it was human. A man can endure only about so much.

"I am guilty of some things, but not of the greatest thing; not of the thing I'm on trial for now. I have stolen and I have committed an assault. For these offences I am willing and glad to pay. But not for a crime I swear to you I never even thought of committing! Not for a crime I never came within a thousand miles of committing!

His voice, strengthening, began to ring with challenge. His eyes brightened. Into his cheek a little tinge of color once more crept back. Enid, gazing at him with terrible eagerness, smiled slightly—a hopeful smile, a smile of confidence and trust. Her soul was vibrating with every word. Surely, when her boy was speaking truth, Heaven's own truth, the very truth of truths, they must believe him!

"Gentlemen," said Arthur, slowly, "this is all I have to tell you. You have my story. It is true from end to end. That night I never even approached the bank. Had I gone there I couldn't have got in without a key, and I had none. At the hour of the murder I was in my room.

"I know perfectly well you have seen and heard a tremendous mass of testimony against me. I know the circumstances seem overwhelmingly against me. But still truth is mighty. And the truth is that I am innocent. "All these things you have seen" and he motioned to the exhibits now lying on the attorneys' table—"are only 'plants,' gentlemen. They form part of a cleverly-laid plot to convict me. As there is a Heaven, I swear to you this is the living truth!

"The hands I hold out to you, appealing for justice, are free of human blood! There is no guilt of murder on them. I ask you, gentlemen, to do me justice and to free me of this false and terrible charge!

"If you convict me here and now you will be convicting an innocent man!"

## CHAPTER XVIII.

Pallid and trembling with the vehemence of his supreme appeal, Arthur now had to face the cynical smile and coldly dangerous incisiveness of Ainslow's cross-examination. True, though his story was, inside of five minutes Ainslow had forced him into several contradictions, on which the district attorney dilated with telling effect.

Before this attack Arthur's narrative soon was riddled. Ainslow added to the force of his assault by making it short. His air said plainly:

"Gentlemen, there is no use in wasting your time on trivialities such as these!"

The way in which he dismissed the boy with a "That's quite enough, thank you," and the grim smile on his lips, spoke volumes.

Keene submitted Arthur to a few minutes of redirect examination, with the hope of strengthening the defence. To this Ainslow did not even deign to reply with any re-cross-examination. This created a favorable impression for the State, and damaged Arthur considerably.

Quite exhausted, Arthur stepped down from the witness stand and returned his seat beside his counsel.

Keene nodded reassuringly to him, but it was plain to see the lawyer felt that his client had not driven the truth of his story home. Arthur had had his chance and had failed to make good. Against the mass of evidence condemning him his story had fallen as ineffective as a broadside of peas against a dreadnought.

Yet Enid seemed to think the case won. Her dark eyes, going from Arthur's face to the stern, set faces of the twelve men in whose hands now lay her boy's life, no longer pleaded. They commanded, rather. They seemed to say:

"Now you have heard the truth, set him free!"

Keene, tired-looking and worn out, failed even to hold the attention of the jury in the final summing-up for the defence. Anybody with half an eye could see that the verdict was already formulated in the minds of these twelve men, and that the only problem now remaining was:

"What degree?"

The audience began manifesting impatience. Some disturbance, as two or three men tried to leave the room, further destroyed whatever effect Keene's words might have had. The jurors, tired out and hungering for nicotine, fidgeted as he addressed them. Plainly they were longing to get up and stretch their legs; to leave the stifling, crowded place and reach the comparative freedom of the jury-room; to light tobacco, free their tongues in discussion, and come down to the business of Life vs. Death.

Keene, noting all this, cut his address short, but threw into it all the power now left in him.

"Gentlemen, I solemnly adjure you," he concluded, "not to throw away or jeopard a human life merely because of prejudice or indolence of thought or through circumstantial evidence. Legal history is crammed with cases of innocent men done to death on circumstantial evidence. Beware of trusting to its fallacies!"

Here Juror Ellis yawned and Foreman Crowther glanced impatiently at the clock.

"Gentlemen! The evidence has demonstrated that my client did not even approach the bank on the night of the crime; that he spent the hours in question in his room; and that the real criminal, by juggling certain material, has managed to lay the blame upon a man innocent as you, or you, or I!"

"Not one scintilla of real proof exists against the defendant. One of the most vital pieces of evidence, the white hairs found in the victim's grasp, has never been explained by the State. No theory has been advanced to account for this fact, which would infallibly give us the real clue to the murderer."

"The real clue! Aye, the real clue!" muttered Jarboe, fixing malevolent eyes on Slayton under the glare of the incandescents. "The real clue! Hear, hear!"

Slayton, seeming to sense his gibe, turned fearful eyes toward the filthy little Shylock. Despite every effort at self-control, the cashier was sweating and shivering. It was not yet too late for Jarboe to spring a coup—not yet, not yet!

"Gentlemen!" cried Keene in peroration. "The defendant is innocent under the law until proven guilty. You understand? Not assumed guilty, but proven! I solemnly call you to witness the fact that no adequate proof has been adduced. You have heard assumption and inference, but no proof. All the proof in this case lies on the side of the defendant. He is an innocent man, and I adjure you to acquit him. Truth is mighty and will prevail!"

He finished with an assumption of intense emotion—mercenary emotion, wholly unreal and quite incapable of touching men's hearts, even were those men not restless and impatient like the jurors. But to Enid his words were balm and manna. They cried to her:

"Salvation!"

Her spirits had quickly revived under their stimulus; and now she could almost find heart to smile through all her grief and fear.

Again her eyes met Arthur's. The boy's lips silently formed three words:

"I am innocent!"

"I know it!"

And their look, each at each, pledged faith and trust and love in whatever joy or pain still awaited its fulfillment, even "the narrow Gates of Darkness through."

Ainslow now rose to sum up for the State. This he did with less than his usual energy. His voice, look and manner all asked with supremely effective art:

"Why waste strength on a case already won?"

Clearly, but with rather perfunctory brevity, he restated the facts already made known and proved. He admitted the circumstantial character of most of the evidence, but remarked

that in some cases such evidence amounted to a positive certainty. He ridiculed Arthur's assertion that the boy could not have entered the bank.

"A criminal, gentlemen of the jury," said he, "who could show sufficient foresight, skill and coolness to conduct an affair like this—even in the wearing of gloves, the attempted planting of evidence on a fellow-clerk, the manner in which he brought a chair and sat down by the body to study out his plan of escape—"

"It's a lie!" shouted Arthur, springing up, unable to control himself. "A lie, I tell you! I never even—"

Grossmith pounded furiously with his gavel.

"Order! Order in this court!" he commanded.

Arthur subsided under this command and Keene's vehement admonitions. Presently, when quiet had been restored, Ainslow resumed:

"Even in the manner in which he destroyed the pages of the ledger, bearing records of the thousand-dollar bills stolen he showed himself a shrewd, clever criminal. He went so far, gentlemen, as to put on rubbers, lest his footprints might betray him. He attacked and killed a feeble, harmless and unarmed old man in the discharge of his duty. This crime, as I will reconstitute it to you, proves the defendant to have been a most conscienceless, astute and calculating murderer."

He leveled his forefinger at Arthur. "Most conscienceless, astute and calculating," he repeated impressively. "And yet he and his counsel ask you to believe he could—not—have—entered—the bank!"

Snapping his fingers, he dismissed the idea as an absurdity. One or two jurors nodded. Evidently the point had gone home.

Ainslow then tore to shreds the feeble alibi Arthur had attempted to establish. It rested only on his own testimony and that of an infirm landlady, none too intelligent. When the district attorney had finished with it only a sorry rag remained, not enough to protect Arthur for an instant from the chill winds of Fate now blowing keen against his defencelessness.

The approving public smiled and nodded, looking late, scorn and vengeance against the boy. Slayton, blue about the mouth, kept a stony impassiveness. Old Jarboe rubbed his hands and chuckled. Chamberlain sat next. To his arm clung Enid. With all her confidence and hope now torn away, wide-eyed and anguished, she watched this man Ainslow murdering her boy's hopes as if he had been dipping his hands in Arthur's.

"I ask you, gentlemen of the jury, for justice," concluded Ainslow. "Not vengeance, but impartial, even-handed justice. You have the facts. They there erect and grim, stoic in his coolness absolutely conclusive. We are not persecuting this man. We are merely protecting society. We are impartially meting out that which should and must be meted out."

"Erat justitia, ruat coelum! Let justice be done, though the heavens fall!"

He kept a moment's impressive silence, looking the jurymen fair in the face, his eyes going from one to another as if giving home the imperative demand. Then, bowing, he sat down, his work at an end. And Judge Grossmith's gavel, backed by all the available court officers, hardly more than sufficed to quell the applause.

When he had restored order, Grossmith fixed his spectacled gaze on the jury, and began delivering his charge.

He dwelt at some length on the nature and value of evidence, direct and circumstantial; described the various degrees of murder and warned the jurors of the solemnity of their duty. Having covered all the necessary points of law, he ended with:

"You have now heard all the evidence pro and contra. On this, and on nothing else whatever, you must bring in your verdict. Remember, gentlemen, you can acquit or you can convict of murder in the first, second, or third degree.

"Remember also, first degree involves premeditation—an act done in cold blood without the extension of self-defence or sudden passion. Take this into consideration in your verdict, and also the fact that the evidence is almost wholly circumstantial."

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"Gentlemen, you will now retire for deliberation."

The jury, thus dismissed, withdrew, taking with them the grim exhibits, relics of the crime. Arthur, with one last look at Enid, was led away by two officers to his cell, there to suffer the racking tortments of suspense—anguish beyond all words—anguish which Enid, too, was destined to endure, waiting with her father in Grossmith's private chambers as the judge's guest.

The audience now thinned out; the corridors emptied themselves; the reporters and artists took themselves off to work their material into shape. A few spectators still lingered wearily on the benches, determined to make an all-night session of it if need were.

Among these was old Jarboe. Though Slayton had departed, obviously quite at the end of all his strength, the unclean, usurious bird of prey sat there bizzard-like, mulling to himself, brooding, pondering. He remained on watch. Ominous and enigmatic, he waited.

What meant that glitter in his eye? What was the old man thinking now? What was he planning?

Nine o'clock came and went, and ten, and eleven. Still no verdict.

What was taking place there inside that locked door of inviolable secrecy? What battles of circumstantial evidence, of reasonable doubt, of mercy, of prejudice, of vindictiveness were being fought out there with bitter argument amid tobacco-smoke, excited words, the waving of fists, and all the most violent passions of men in strife of principle and strong determination?

What ballots had been taken and were being taken? How was the tide of conflict turning? None outside knew; none might ever know any but the one final, vital, crucial thing—the verdict!

Thus passed the hours of that night—anguishing, soul-destroying hours, hours of agony for Enid and the boy, hours of torment.

And suddenly, at eleven forty-two, word came out of that sealed place—word of decision—word of terrible hope and fear—word of supreme tension: "We have reached a verdict!"

Interest and excitement quickly revived. The benches began to fill again. The opposing lawyers reappeared. Telephone messages began to draw crowds of spectators and reporters, each newspaperman eager to get the verdict first to his own waiting sheet. A buzz and hum of life once more filled the corridors and the sad room of human hopes and fears.

The jury now entered. Grimly and in silence the twelve men filed into the box, knowing the secret of the boy's fate, which they had sealed and now held in their hands. Judge Grossmith came in from his chambers, still robed and gravely impassive.

Chamberlain supported Enid, who clung to his arm, plainly on the ragged edge of collapse. Her r pallor was extreme. Her big, dark eyes were undrained by marks that seemed bruises on the white flesh.

Now Arthur appeared, led in by two officers as the jurymen and judge sat down. He, too, was very pale; but his eyes looked bravely at the girl, and on his bloodless lips a smile managed to hold itself—a smile she tried to give him back, and failed.

Arthur sat down near Keene, a guard on either hand. The clerk of the court, who had entered before Grossmith and had been fumbling over some loose papers, turned toward the jury-box. He fixed his eyes on the face of Crowther, foreman of the jury.

Listening with intense eagerness, old Jarboe leaned a little forward and

gnawed at his crooked fingers, his eyes strangely gleaming, still there remained time for him to speak. At this last moment, on the verge of Fate, what might he not still do?

Enid, trembling violently, hid her face in both hands and shuddered against her father's breast. The old man soothingly drew his arm about her, patting her shoulder as if she had been only a little child.

The clerk coughed slightly. "Gentlemen of the jury," said he, "have you reached a verdict?"

Crowther nodded as he stood up. "We have," he answered in a tense, hoarse voice.

The pause that followed, though but a second, seemed an eternity to Enid and the prisoner.

Arthur stared at the foreman with pale and terrible intensity, both hands clenched, jaw set hard, holding himself together by sheer force of will. Old Chamberlain's arm tightened about his daughter. A rigid tension of silence held the room.

"What is your verdict, gentlemen?" asked the clerk.

All the jurors stood up. Their faces for the most part showed pitiless and hard. One or two, however, glanced compassionately at the boy.

"What is your verdict?"

"Your honor," answered the foreman, addressing the court, "we find the prisoner guilty of murder in the second degree."

Jarboe's blinking eyes never for a second quitted Crowther's face. His lips moved slightly. He seemed preparing to speak. On him Slayton fixed a gaze of shrinking, appealing terror, which the old man did not notice.

(To Be Continued)

## As Effective as Tanks.

Cyrus, the founder of the Persian empire, first put into practice the idea of equipping the wooden ammunition carts of ancient Romans and Egyptians with sharp scythe-like knives. These were fastened to the body and wheels of chariots, and were effective in charging among massed troops.

In the middle ages the modest knived chariot was transformed into a movable tower covered with surface armor affording protection to men inside. These were mounted during a siege over the moats surrounding castles. From them a platform was let down on the top of the walls, which served as a bridge for the attacking troops.

Tommy—Pop, what do you mean by a woman of uncertain age? Tommy's Pop—A woman of uncertain age, my son, is one who doesn't like it if you don't remember her birthday, and doesn't like it if we do.



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