atory of the intention when the intention was in itself a part of the issue in controversy. He then referred to the case of Courtland vs. Patterson, 9 Foster, p. 280, declaring that the intention was material to the issue.

He next quoted from Cole vs. Whitely, 3d Gill and Johnson, Page 197; Patton vs. Ferguson, 18 New Hampshire, page 528; 3d Parker's Criminal Reports; People vs. Williams, pages 88 and 107, and State vs. Duler; Phillip's N.C. Law Reports, page 211.

Mr. Hagner followed for the defence, and quoted from 1st Greeenleaf on Evidence, 98 sec.; Patton vs. Ferguson, 18 New Hampshire.; 528; 9th Cushing; Lund vs. Tineboro', page 376; 1st Gill, page 140; Whiteford vs. Burkmeyer, and 21 Md.; Crawford vs. Beall, page 233.

At the conclusion of the argument the Court adjourned until the usual hour to-morrow morning. Mrs. Wharton and her party remained for ten or fifteen minutes and then quietly left, attracting less attention than on yesterday. She was leaning on the arm of Colonel Brantz Mayer, and walked with a firm step. During Mr. Revell's opening statement to the jury, she sat with her veil down, but kept her eye steadily fixed upon him most of the time.

She had been visited in jail by a number of her friends, who are residents of Annapolis. Her room is comfortably furnished, and she enjoys the same privileges that were afforded her in Baltimore.

THIRD DAY.

ANNAPOLIS, MD., December 6, 1871.

The trial of Mrs. Wharton progresses slowly, and the interest manifested lacks to day the excited and sensational character which marked it on yesterday and the previous day. It is evident the trial will be a long one, and the general disposition is to be patient.

Mrs. Wharton entered the court room a few minutes before 10 o'clock, leaning on the arm of Sheriff Chairs, and was followed by her daughter, who leaned upon the arm of Mr. J. Crawford Neilson. Mrs. and Miss Neilson accompanied her, also, Mrs. Nugent, the wife of her brother, Dr. Nugent, of Pennsylvania, and the party took the seats they occupied at the commencement of the trial.

Upon the opening of the court Mr. Steele called the attention of the bench to 2d Harris & McHenry, page 120, Claie vs. Chas. Ridgely; 2d Jones, N. C. Law Reports, page 364; 34 English Common Law, page 313; 4 Bingham, pages 489 and 498; 33d Common Law Reports; 34 Common Law Reports, page 32, and other authorities.

On motion of Mr. Hagner, Herman Stump, Esq., of Harford county, was next admitted as an attorney of the court, and took his seat with the counsel for the defence.

Mr. Revell followed for the State, and said the question before the court was one of great and vital importance to the State. It was important in all its bearings, because it was the entering wedge into the case. The resgestæ must depend upon all the circumstances surrounding each particular case. While the counsel for the State admitted the general principle of law that hearsay testimony is not admissible, yet they contended that this case presented an exception which came within the modifications of that principle.

The testimony offered could not be brought in any other way, and was, he considered, in every way material and relevant. Mr. Revell then proceeded to quote from Armstrong vs. Hewitt, 4 Price, 218; Roscoe's Crim. Evidence, p. 22; 3 Phillips on Evidence, p. 207; Kolb vs. Whitely, 3 G. and J., 197; Starkie on Evidence (side page), 89; Kent vs. Lowen, 1 Campbell, C, 177; Hadley vs. Carter, 8 N. H., 110; Lepson's vs. Little, 9 N. H., 271; 19 Com., 205; 29 Vermont, 627; 14 N. H., 201. No general rule can be laid down as to what is the regestæ, every case depending on its own features. Allen vs. Duncan. 11 Pick, 301; Pool vs. Bridges. 4 Pick, 378; 3 Phil. on Evidence, 589, Md., &c., 452, and cases there cited.

The Attorney General followed the State's Attorney. He contended that it was competent to give to the jury every fact throwing light upon the whole transaction. The case was one of circumstantial evidence, and every fact was important, and no single fact more important than another. Everything depended upon the credit to be given to the statement sought to be introduced. He knew that they were dealing with human life, but it must be remembered that all the bonds of society had been broken and violated, and every transaction was material and relevant because it was a case of circumstantial evidence.

Mr. Syester quoted in his argument from 29 Vermont, 19 Conn., Starkie on Ev., p. 88; 9th New Hamp., 271, and reviewed authorities produced yesterday, as follows: 18th N. H., 9 Cushing, 3d Parker's Cri. Trials.

Mr. Steele replied for the defence. He did not propose to say anything of the bearing and importance of the question, except as a legal one. The tendency in this country and in England was to circumscribe the limits allowed to hearsay evidence; it was vitally essential to the protection of life, liberty and property.

He then quoted from 3d Tenn. Reports, Queen's Bench; Whiteford vs. Binkemeyer, Maryland Reports. It was better that ninety-nine guilty should escape rather than one rule of evideuce should be strained to convict a prisoner. It was better that Mrs. Wharton, if guilty (which, in God's name, he hoped to be able to show she was not), should leave the court a living monument of the unswerving determination of the bench to maintain unimpaired the strict rules of evidence, made and established for the protection of human life, than that one established rule should be violated, even remotely. If the rules of evidence were to be considered as Mr. Revell had contended they should be applied in this case, the State would be left free to convict every prisoner. He next quoted from Jones' N. C. Reports, and further argued in an earnest and able manner the legal question involved.

During the discussion Mrs. Wharton sat with her veil down, and appeared calm and composed, but listened attentively. At the conclusion of Mr. Steele's argument she leaned over to Mrs. Neilson, who sat immediately to her right, and they held an earnest conversation.