

transaction and not the initiation should be given? The fact that it was a continuous transaction gave the defence the right to bring it in, and in justice, reason and law the testimony ought to be admitted.

Mr. Syester said he did not regard what Mrs. Wharton said as evidence to go to the jury, and what Marshal Frey had said was the only evidence that could be admitted. The act of giving the money was the only thing that could be explained, and not the declaration of Mrs. Wharton previous to that act.

The Chief Judge said the Court was of the opinion that the declaration of Mrs. Wharton was clearly inadmissible.

Mr. Steele said the defence had offered the testimony as part of the *res gestae*, and connected with the circumstance of her offering the money to Marshal Gray.

The Court repeated its opinion, and the witness was dismissed.

The Court then adjourned until 10 o'clock A. M., to-morrow. The defence will probably close their case to-morrow, and the arguments before the Jury will, it is believed, commence next Monday afternoon or Tuesday morning.

Among those present to-day were Rev. C. K. Nelson, of St. John's College; A. W. Machen, Esq., of Baltimore; Professor Toury, Dr. William T. Howard, Commander J. S. Skerrett, of the Navy; Colonel Lacey, of the Fifth Regiment of Baltimore; Hon. Daniel M. Henry, of Dorchester county; Hon. Barnes Compton, of Charles county; Colonel James Howard, of Baltimore; General Thomas W. Campbell, of Baltimore; Colonel Brantz Mayer, William Hollingsworth Whyte, Esq., Hon. Alfred Spates, of Allegany county; Hon. John Thompson Mason, Secretary of State; Judge George W. Wilson, editor of the *Marlboro' Gazette*.

### THIRTY-FOURTH DAY.

ANNAPOLIS, January 13, 1872.

It was evident from the large attendance to-day upon Mrs. Wharton's trial that the interest of the public is unabated. It is anticipated that the crowd during the closing days will be as great as ever attended a criminal trial in Maryland.

Mrs. Wharton is still very calm. Her daughter, Mrs. Nugent, Mr. and Mrs. J. Crawford Neilson, and Mr. H. Moore Wharton are still with her. Miss Rosa Neilson has been absent during the past two days.

Upon the opening of the Court to-day, H. Moore Wharton was called, and testified—I reside in Philadelphia; I was related to Colonel Wharton, but not very near; I know Mrs. Wharton very well indeed; I first met her in the summer of 1860; I again met her in Rhode Island in the summer of 1870; I have stayed at her house very often since that time; her reputation for kindness, amiability and humanity is beyond reproach; I have had opportunities of knowing her reputation for these qualities.

Colonel Brantz Mayer next testified—I am a Paymaster in the United States Army, and am at present stationed at San Francisco; I was summoned in this case, and with the permission of the Secretary of War I obeyed the

summons; I have known Mrs. Wharton quite intimately for the past eight years, during which time I was in my native place, Baltimore; I am a brother of Charles F. Mayer; my family and Mrs. Wharton's have been very intimate; my relations with Mrs. Wharton were also close, friendly and intimate; I have had very good opportunities of knowing her reputation; for amiability, kindness and humanity her character was excellent and, in fact, unimpeached.

J. C. Keighier next testified—I reside in Baltimore; I have known Mrs. Wharton since September, 1870; I was at her house frequently, and knew those who visited there; her reputation for kindness, humanity and amiability was unquestioned as far as I knew.

Commander J. S. Skerrett next testified—I am a Commander in the Navy, and am at present stationed at the Naval Academy; I am acquainted with Mrs. Wharton; I first met her in September, 1859; I have had excellent opportunities of knowing her reputation among those who knew her well; her reputation for amiability, kindness and humanity was as good as the best.

Dr. James C. Welling next testified—I live in Washington and am at present President of Columbian College; I have known Mrs. Wharton for five or six years; I met her in Washington; I have had friends and relatives who resided in Baltimore near Mrs. Wharton; they were my father-in-law, the late Col. Henry T. Garnett, formerly of Virginia, my sister-in-law, my mother-in-law and my sister; they lived near Mrs. Wharton and were intimate with her; as derived from those who knew her, I know that her reputation for amiability, humanity and gentleness was very high; I wish to say why it was that Colonel Garnett and Mrs. Garnett had this reputation of Mrs. Wharton impressed upon them; the witness was not, however, allowed to state what he desired in this particular.

W. W. Wilson next testified—I reside in Washington, and am employed as an accountant in the United States Treasury; I have known Mrs. Wharton six or seven years; I visited her house frequently, and have spent several days at a time at her house; I have heard many of those who have testified here, both for the defence and State, speak of her in high terms; Mrs. Chubb spoke of her; she stood very high in the estimation of her friends for amiability, humanity and gentleness.

Thomas E. Coale next affirmed and testified—I reside now in Baltimore county; I formerly lived at 47 McCulloh street, Baltimore, and next door to Mrs. Wharton; I have known her five or six years; our steps adjoined; I lived next door to her for two years and I was well acquainted with her; I don't think any one had a better reputation for kindness, gentleness and humanity.

Mr. Hagner next said he had two letters, which it was agreed by the State's officers should be read in part, if the Court consented. The first letter was from Major General H. Heth, late of the Confederate army, but now resident in Raleigh, North Carolina. The second letter was from Dr. Finley, of Philadelphia.