

timore, and yet the State claimed that it was only endemic.

The evidence in this case would not justify the jury in convicting Mrs. Wharton, even if she had come into Court stained with the blood of previous crimes, and much less could the jury convict her when she came clothed with the high character which had been proved by witnesses who could not be doubted. The laws of the moral world were as invariable as those of the physical world. Mr. Thomas then commented upon its importance, in estimating the weight of circumstantial evidence. The jury did not know personally the prisoner at the bar, but it was their duty to familiarize themselves with her character as it had been shown to them. It was true, in reference to a certain class of crimes, that they were often perpetrated by persons who before had never been suspected, but such was not the case before the jury. The story of the crime of Maj. Hodge was but the story of those who God had designed for better things, and it would be traced step by step. Such was not the case at the bar. If the State was right, the crime was a cold-blooded murder of a friend who had come to bid her God speed upon her voyage to Europe. Her high character had been testified to by witnesses from Maine to California. Men who have left their names imperishably in history had come to meet here and join in one testimony to her record.

Mr. Thomas, in conclusion, made an eloquent appeal to the jury in behalf of the accused. Death had thrice invaded their homes since they had been called to this duty by the State, and the lesson had come to teach them not to forsake the widow.

During the delivery of his earnest concluding remarks deep silence reigned throughout the court room, and many of the ladies were observed to weep. When he ended there was a slight applause, which was promptly checked.

Mr. Thomas, in his effort in this cause, showed that the prominent position he has so long held at the bar of Baltimore is well deserved, and that the high reputation he bears is truly due to his professional attainments. His able argument occupied over five hours.

Mr. Steele followed, and, in eloquent language, introduced himself as the advocate of the prisoner. He alluded in feeling terms to her long imprisonment and her daughter's devotion. The law was, that when there was a doubt of her guilt, she was entitled to go free; but she would not stand upon that ground alone, but he was here to show the jury that the State's evidence showed, in a large measure, that she was vindicated before the world. The defence had not set up in the beginning a special plea, because it was not necessary; they had not set up a plea of alibi or insanity, as they might have done. Mr. Steele then referred to the circumstances surrounding Mrs. Wharton, and said the charges against her had been pressed with an unflagging pertinacity and a heated zeal which would have been worthier of a better cause than that which had for its object the taking of the life of a lone woman. Every witness who had

appeared in the case had some feeling. Mr. Steele first referred to the case of Dr. Williams, the witness upon whom the State most relied, and said Dr. Williams had shown from the beginning of this case that he thought his professional reputation was embarked in it. Dr. Williams was a gentleman of high character and professional attainments, but he would inquire if he was, considering his position in this case, to be unimpeached. Then came Marshal Frey, the detective, who, like all of his class, was eager to bag his game. He would not say an unkind word of the ladies or gentlemen who had testified, but he called attention to the character of the testimony to show that they testified more or less under those feelings which govern human actions. He referred to them to show the unusual zeal with which the charges against Mrs. Wharton had been sustained and urged. The wish is father to the thought, and the memory can be moulded like wax. Here Mr. Steele commented on the distortions which suspicion and prejudice so often gave. The cases in which conviction was justifiable on circumstantial evidence were rare, and he begged the jury to remember the distinctions which the law drew between the circumstantial and positive evidence. In circumstantial evidence there was all the difficulty of drawing correct inferences—difficult even to trained minds. Mr. Steele then cited the numberless executions for witchcraft, and the lesson such executions bore. He then read Wills on Circumstantial Evidence, page 49, enjoining great caution in considering circumstantial evidence. Mr. Steele then referred to the proneness of fallen human intelligence to believe slanders and calumnies. The forked tongue of popular feeling licks up all that is against fair names and virtues, and refuses to believe the good. But when a jury was sworn to well and truly try the case, the jackal of rumor slinks back into his den. Mr. Steele then begged the jury to take home to themselves the case, and think if a wife, daughter or sister of one of them was to be accused of such a crime and surrounded by such circumstances, what would be their unwillingness to listen to a suspicion? He next referred, in eloquent terms, to Mrs. Wharton's character, and said it might as well be expected that a stream would flow up a hill as that a woman of such character would commit crime. He then addressed himself to the facts of the case, and first called attention to the testimony of Mrs. Chubb. She had said that both she and Mrs. Wharton were sure that but one purchase of tartar emetic had been made on Monday. At much length Mr. Steele dwelt upon the testimony in reference to the alleged purchases of tartar emetic, and claimed that the State's evidence, instead of proving them, really disproved them. The testimony proved that but one purchase of tartar emetic was made, and now what became of it? And just here the jury could not allow a suspicion of intent of simulation to lurk in their minds.

The State, by its own testimony, has shown that Mrs. Wharton had used it on a plaster, and thrown the paper away, and yet such was