THE COURTS.

THE TWITCHELL TRIAL.

Conviction of the Prisoner.

CONCLUSION OF YESTERDAY'S PROCEEDINGS.

The Court re-assembled at 3 o'clock.

Mr. Mann concluded his argument by warning the jury that if they rendered a verdict of guilty in this case the prisoner's blood would cling to them. He (the prisoner) is not responsible for his acts in relation to his human testimony. No attempt had been made to introduce his evidence; but his reliable witnesses had been examined. If he were on trial he would stand out well. He came of decent parentage. He warned the jury not to be carried off dizzy by the appeals of the District-Attorney, who had remained passive only to gather up his legal points and mislead the jury.

Mr. Sheppard closed on the part of the Commonwealth, and said the case was not one of professional or even friendly rivalry so much as duty. He felt too strongly in the case to introduce such an element. He would not follow Mr. Mann in his rhetoric, for his case may have required all of it, with all the pathos and passion with which his speech was adorned. All he desired to do was to place before the jury the facts fairly and honestly. This little jury-box expands to a wider horizon as an indication of the public interest in this case, and if there be a failure of justice here, a heavy responsibility will rest somewhere.

It rests upon each and every one of the twelve gentlemen before me. The eight or nine hundred thousand men who are waiting for a verdict are judges. It after it leaves your hand. They are waiting to see if this homicide will go unpunished when it invades the quiet of home and desecrates the holy ties of kindred. Is it the one with a full appreciation of what may be said when we walk out of this Court. So much has been said by counsel, that it may be well to come back to the real facts, and understand exactly what we are trying. Insufficient evidence is the scare-crow set up to frighten this jury.

If all crimes were committed openly or if criminals would be obliging enough to commit no other, there would be few cases of circumstantial evidence. So long as the world is as it is, we must take circumstantial evidence or you must let all criminals go free. It is necessary and lawful to act upon circumstantial evidence. The guilt of criminals must be established by evidence, that testimony, for there is seldom direct evidence.

There are about eleven or twelve cases called circumstantial evidence, in opposition to convictions, and they have for years formed the stock in trade of lawyers in defending criminals. Is it a reasonable inference? But, like the scarecrow in the play, we now know it is harmless. It is not so. The thing is well understood in the profession. Circumstantial evidence, with direct testimony, must be scrutinized, and when you do that, you cannot fail to notice the strong link in this particular case. Let us commence at the beginning, and take the actor in the tragic drama. The first thing we have is the charging of the house by the prisoner at Hill's house. The door of the kitchen is open, and the bell is at the kitchen door, and the bell rang at the transmission of sound. The bell was about the transmission of sound. The bell was rung six times without a violent ringing, and ringing, and distinct sound. The bell rang, it was heard in the next house in the cellar, through walls, so violently was it rung. The bell in this house, with an open kitchen door, in the silence of the night, it was heard, and we are asked to suppose. But they say Mr. and Mrs. Hill, and Mrs. Fox, that it is a suggestion of counsel, and not the evidence. You are sworn to try according to the evidence, and not by what the lawyers may say. There is at least an answer to the ringing. Let the man! He comes to the door, and it is a slightness he asks Mrs. Hill, "Where is mother be?" It might be a proper question for the servant to ask, but for a man, under the house, to ask the foot-prints of crime. The only object was to start the girl on a search. The girl says, "Well, sir." It is important to see where she went. It is an assertion. We know that he went to her room to look, but it is to be assumed and evidence. Circumstances cannot lie." This assertion has in its "idium" which has led to mischievous results. Circumstances may be misleading and deceive, for they may be detailed by biased witnesses, may be arranged by enemies, and may be what Ben Bonthom and others call false facts.

The time to ascertain and error may be traced the mistakes committed in the clever speech which has been so often relied on by defendants, and which had been so frequently relied in Judicial Story's time, so far as to say, him, "the common-places of the law." (O. S. vs. Gilbert, 2 Sumner, 19, 22.)

We reasonably conclude that we will not be governed by circumstantial evidence, is as we have said, to close our eyes to facts.

It is susceptible of demonstration that positive testimony may be produced very many of the results. Falsehood generally fabricates direct evidence.

Let us, then, endeavor to ascertain the facts which identify ourselves to be confident of the truth in a particular case. They may be briefly stated thus:

First. We must of course guard against the evil consequences of witnesses, by inquiring whether the evidence is positive or circumstantial.

Second. In cases depending upon circumstances it must take place on the day of the crime, not have been arranged by others. Having thus tested the *existence* of the circumstances, we must ask ourselves the question, and what do they prove? *Force or application.*

Third. We should draw therefrom no inferences save those which are entirely fair and natural, and which are reasonably and naturally certain.

Fourth. We cannot see to it that each fact on which we rely is independently proven, and that it is consistent with all the others.

Fifth. Each circumstance relied on to produce a result must be so consistent with all the others connects them with the world beyond our own. Is it reasonable, is it probable, is it proved to the satisfaction of philosophers the great law of gravitation which counts the motion of the universe.

The man who denies the existence of his Maker is properly regarded by all as thereby evincing his want of reason.

Yet who proved the fact of this important and accepted much except from circumstances? The existence of God was proved by the proof of belief in all the great truths of revelation. If we turn from the consideration of the great moral truths within us, we see again that so rational may reasons for our instinctive belief, the circumstantial testimony.

What evidence have we that it is a heart that beats or a brain that throbs within us, except from the outward manifestations of an invisible and constituted being? And we accept remedies for all the ills that flesh is heir to upon the evidence of circumstantial evidence.

The improvements of modern science furnish us with illustrations. We see the ship with its steam-pipe and see the battery in motion. A message is received. The battery and the wire of the line may be thousands of miles distant. The human eye saw the sable cloud arise, the wire, and yet you would hardly listen with patience to the argument which would tend to reason to you that the message might have come through the air or with telegraphic power at the wire, and that all your evidence to the contrary was circumstantial, and therefore worthy of regard.

In short, a skepticism like this would open wide the door for the perpetration of all secret crimes, would open the door to the ills of life, would open the door to the ills of life, would open the door to the ills of life